ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

1887.

WITH INDEX.

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TO

THE ABSTRACT OF PROCEEDINGS

OF

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ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 7th January, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Mahárájá Luchmessur Singh, Bahádur, of Durbhunga.
The Hon'ble R. Steel.
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.
The Hon'ble Syud Ameer Hossein.
The Hon'ble Peári Mohan Mukerji.
The Hon'ble W. S. Whiteside.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to consolidate and amend the law relating to the Protection of Inventions and Designs. He said:—

"The present law is contained in three Acts of Council—Act XV of 1859 in regard to patents, Act XIII of 1873 in regard to patterns and designs, and Act XVI of 1883 in regard to inventions exhibited at public exhibitions.

"The Act of 1859, introduced by Sir Barnes Peacock in 1855, was in many respects an improvement upon the existing English law of patents. In England the principle prevailed of giving an inventor his exclusive privilege by a grant from the Crown. In India it was thought preferable that he should derive it under the Act itself, subject to certain restrictions. The substantive law of patents for India was thus contained in the Act of Council, which laid down in

clear terms the conditions which must be fulfilled to entitle an invention to protection under the law.

"The procedure established by the Act was also of the simplest description. On petition and leave given to file a specification, and on the specification being filed within the prescribed period, the exclusive privilege sprang into existence by mere operation of law, provided, of course, that the claim was well-founded in substance—a matter of which the claimant, as in England, took the risk.

"In the Bill which I now ask leave to introduce these main characteristics of the Act of 1859 have been carefully preserved. But a quarter of a century's experience of the working of this Act has shown, as might be expected, difficulties to be removed and improvements to be effected. The work of alteration has not been lightly undertaken, and the measure which I submit is the result of the labours of my distinguished predecessor, after communication with the Secretary of State and the authorities of the Board of Trade in England.

"I will now briefly refer to the leading features of the Bill. It is divided into two Parts, the one relating to inventions and the other to designs. The former Part reproduces the Act of 1859 with certain modifications: the latter part is an adaptation of the essential provisions of Part III of the English Act of 1883.

"With regard to the machinery by which the law is to be worked, the general superintendence will be by the Government of India, with the assistance of the High Courts and District Courts in contentious matters. The jurisdiction now exercised by the High Courts at Calcutta, Madras and Bombay will be extended to the High Court at Allahabad, the Chief Court of the Punjab and the Recorder of Rangoon. And as Government has had under consideration the constitution of an Inventions Office under the superintendence of the Secretary to the Government of India in the Revenue and Agricultural Department, and the transfer to him of the functions exercised under Act XV of 1859 by the Secretary to the Government of India in the Home Department, power is taken to accomplish this object by an administrative arrangement.

"The next important point is as to specifications. The petition for leave to file a specification of an invention presented under section 1 of the Act of 1859 not infrequently furnishes only a vague description of the invention which it is sought to protect, and, when a fuller and clearer description is called for, it is at times only supplied under protest. The Bill therefore provides that the specification must describe with reasonable precision and detail the

nature of the invention, and be supplemented by such further particulars relating to the invention, and by such drawings or models illustrative thereof, as the Governor General in Council may see fit to require. This, I think, is only right, for, as Sir Barnes Peacock well observed when introducing the Bill of 1859, 'the only thing which an inventor gives to the public as a consideration for the exclusive privilege conferred upon him, is a knowledge of his invention. He ought, therefore, before he obtains an exclusive privilege, to communicate to the public such a knowledge of his invention as will enable them to practise it as soon as his exclusive privilege expires.'

"The next point is this. When an application for leave to file a specification has been made, it becomes the duty of the Government, in the public interest, to enquire into the merits of the application. Successive Advocates General have advised that the existing law imposes upon the Government the duty of making enquiry to an extent which must at times seriously delay the progress of an application, without producing any commensurate advantage. The Bill proposes to leave to the Governor General in Council a discretion as to the nature and extent of such enquiries, permitting a reference to experts in cases in which it seems desirable, and leaving to Government, instead of to the High Court, as at present, the settlement of the expert's fee.

"While upon the question of fees I may say that this part of the Act is based on section 24 and the second schedule of the English Act, and on the first schedule to the Patent Rules, 1883, made by the Board of Trade under the Act. Light fees are proposed to be levied in respect of applications for leave to file specifications and in respect of the filing of specifications, and increasingly heavy fees periodically in respect of the continuance of an exclusive privilege. Under section 8 of the Bill an exclusive privilege will cease if any fee in respect of its continuance is not paid within the time limited for the payment.

"I now come to that part of the Bill which relates to the privileges granted to inventors. A question has recently arisen as to whether a person is precluded under the existing law from proceeding to acquire concurrently a patent under the English Act and an exclusive privilege under the Indian Act; and it has been held, on the advice of the Hon'ble the Advocate General of Bengal, that he is not so precluded, provided he can truly state at the time of applying for leave to file his specification in India that his invention is not publicly used or known in the United Kingdom. It is proposed therefore to provide in the Bill, on the analogy of the provisions of sections 103 and 104 of the English Act, that, if an inventor applies for leave to file a specification in India within

one year from the date of his application for a patent in England, he shall have the right to do so.

"In regard to concurrent applications in respect of contemporaneous inventions it has been found that applications have been made by two or more persons at the same time to obtain exclusive privileges of the same manufacture; and we propose to follow the English rule and authorise both or all the applicants to file specifications.

"Then, as cases of hardship have occurred owing to there being no provision for extending the period of six months within which section 4 of the Act of 1859 requires a specification to be filed, after an order authorising the filing of it has been made, it is proposed to empower the Governor General in Council, on cause shown to his satisfaction, to extend the period from six to nine months.

"It is also proposed to obviate another hardship by permitting the holder of a patent obtained in England to apply to the Governor General in Council, within twelve months from the day on which the patent was actually sealed, for leave to file a specification in this country.

"In England the date of application and of the sealing of the invention are supposed to be the same, but in point of fact they are on different dates, there being sometimes a difference of 18 or 20 months between them. It is therefore proposed to give the holder of an English patent the fullest opportunity of availing himself of the Indian Act by making the date of actual sealing the starting point of the period within which he may make his application.

"In the case of new manufactures exhibited at exhibitions in India, it is proposed, in repealing Act XVI of 1883, to protect such inventions not merely from the date of the opening of an exhibition but from the date of their admission into the exhibition. The English Act is about to be amended in this respect, and it only seems fair that this should be done.

"Under section 20 of the Act of 1859 it was provided that, where a patent for an invention has been obtained in the United Kingdom, an exclusive privilege in respect of the invention in India is not to extend beyond the term granted by the patent. It has been found that this rule has proved in many cases to be a hardship, and under the advice of the Board of Trade it is proposed to rescind it.

"A matter of some difficulty in legislation of this kind arises upon the question whether servants of Government and of public bodies, such as muni-

cipalities, should be allowed the same privileges as private individuals in regard to inventions made by them in the course of their employment. Without entering into the argument—and there is a good deal to be said on both sides—I will merely say now that the Bill follows section 27 of the English Act in making an exclusive privilege have the same effect against the Crown as it has against a subject. But it authorises officers of the Crown to use the invention for the services of the Crown on terms to be before or after the use thereof agreed on with the approval of the Governor General in Council, or, in default of agreement, on terms to be settled by the Governor General in Council.

"In another respect, which will probably provoke less animadversion, we have followed the English Act in providing for the grant of compulsory licenses where an inventor who has acquired an exclusive privilege does not make his invention accessible to the public on reasonable terms.

"The last point to which I think it necessary to refer in connection with Part I of the Bill is a provision by which, when the extension of an exclusive privilege is sought for a further period, the Governor General in Council may, if he thinks fit, refer the application to a High Court for report. This is in analogy to the practice in England, where such references are made to the Judicial Committee of the Privy Council.

"Part II of the Bill relates to designs, and requires but little comment from me. It is admitted that Act XIII of 1872 has failed to effect the object for which it was passed, and that if designs are to be protected here, as they are in every civilized country, legislation is necessary. The present Bill is a mere adaptation of Part III of the English Act of 1883. It extends from three to five years the period during which copyright in a design is to continue. I see no reason to doubt that this measure, which is working well at home, will be equally effective here.

"These, I think, are the main provisions of the Bill which I now ask leave to introduce."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

SEA CUSTOMS ACT, 1878, EXCISE ACT, 1881, AND INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR A. COLVIN moved for leave to introduce a Bill to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882. He said:—

"Although one of the objects of this measure is to a certain extent to extend and modify the duties at present in force upon the import of European liquors, the aim of the Government is not to increase its revenue from that source, however unobjectionable a source of income the excise on imported liquor may be, but to meet certain representations which have been put before it from time to time by firms engaged in the importation of European liquors.

"Under the tariff as it now stands imported spirit is charged with a duty of four rupees a gallon when it is of the strength of London proof, the duty being rateably increased as the strength goes above London proof, though no allowance is made when the strength falls below proof.

"Representations have been made from time to time by importers of spirit, urging that, as the tariff provides for an increase of duty when spirit exceeds London proof in strength, it should in fairness provide for a reduction of duty when the strength falls below London proof. When these representations were first made to the Government about five years ago, it was not considered expedient to make the change proposed. The claim, which was put forward by European importers of the better classes of spirit, was based on the ground that the revenue suffered and would continue to suffer by the practice enjoined by law. The argument was that spirit imported in bottles, always much under proof, to the extent of 15° or 20°, paid the full duty of four rupees as if it were proof spirit, and that this charge was an inducement to importers to land their spirit in wood and of a strength much over proof, and bottle it in this country after dilution, bringing it down much below proof. It was held by the Government that, though the argument was reasonable in principle, the result threatened was not likely to arise in practice, for the value to the consumer of good brands of spirit rested on the well known marks and labels on the bottles in which it was imported, and there was little fear of a change of practice which would certainly largely diminish the value of the class of spirit imported by firms like that which made the representation. For this reason, and also because the change would lead to a loss of revenue which could not

be afforded, it was decided not to take any action in the matter, and the tariff was left unchanged.

"It was found, however, in 1884, from a communication received from the Government of Bombay, that dealers in low class spirit had discovered the advantage of importing strong spirit in wood, to be diluted and bottled off in this country, and that the practice had become quite common, with an increasing loss to the revenue. This fact changed the aspect of the case altogether, for with the increasing use of cheap foreign spirit by Native consumers the practice must every year lead to a larger loss of revenue. There was also the loss in the excise on country liquor displaced by this unduly favoured cheap foreign spirit. There was unfairness to the importers of spirit of the better kinds, who were unable to follow the same plan, and who paid as on proof spirit for their bottled spirit imported at a strength of from 15° to 20° below proof. Lastly, there was certainly a risk of adulteration in bottling off this cheap spirit in the premises of unscrupulous dealers in liquor.

"Enquiry was therefore made in view to taking action which would on the one hand give equal justice to all importers, and on the other prevent a loss to the revenue. It was found on reference to the other Local Governments that the practice reported from Bombay was by no means uncommon, and the next question to consider was the nature of the remedy to be adopted.

"There were three courses open. We might have retained the four-rupee rate of duty on proof spirit, and have allowed a *pro ratâ* reduction for spirit below proof; or we might have fixed the limit of strength for the four-rupee rate at 15° or some other limit below proof, and have increased the duty with increased strength, not allowing any reduction for lesser strength than that fixed for the standard; or we might have increased the rate of duty on proof spirit, and allow for reduced strength and charge for increased strength.

"The first of these courses means in fact a reduction in the present rate of taxation on liquor. Now we are not prepared to bear any loss in any direction at present, and if there were any prospect of relief being given to the tax-payer it might certainly be given in many other directions in preference to a reduction of the tax on liquor.

"The second of these courses would be ineffectual; for, if we now fixed, say, 15° below proof as the limit of strength for our standard rate, we should at once have importers of still weaker spirit clamouring against the unfairness of

charging on spirit of 20° or 25° under proof the same rate of duty as on spirit of 15° under proof, and the argument would be quite as reasonable as the argument used against the present rate.

"We have decided therefore to adopt the third course, and raise the rate of duty on proof spirit to five rupees the gallon, allowing a rateable reduction on strengths below proof and charging a proportionate increase on strengths above proof. We could not approve any proposal which will diminish the liquor revenue, and this alteration of the tariff, which gives to importers the equitable treatment for which they ask, is the only way we think in which this can be done without loss to the State. The measure will entail some expense and inconvenience consequent on the introduction of differential rates of import-duty; but it is believed that the expense will not be considerable and will be quite covered by increased receipts. The gain to legitimate trade from the removal of the practice at present obtaining, and the fact that differential rates were suggested by the trade itself, may be balanced against the prospect of any inconvenience which may follow on the introduction of the revised system.

"A further amendment of the tariff has also been made on this occasion which requires explanation. When the tariff was amended in 1882, perfumery, with most other articles, was struck out of the list of articles subject to duty, perfumed spirit being alone left liable to duty when imported in bottles or vessels containing more than four ounces. The immediate effect of this provision was an enormous increase in the importation of perfumed spirit—mostly called eau de Cologne—in bottles of four ounces and less. In 1884-85 some 37,000 gallons were thus imported. A very large proportion of these imports —probably the great mass of them—consists of strong raw spirit very slightly perfumed; and it has now been ascertained beyond a doubt that this stuff is commonly drunk by certain classes who, being ashamed to buy liquor in its common form, save appearances by buying and drinking this liquor (sold to them by dealers who pay for no liquor license and unfairly compete with licensed liquor vendors) under the disguise of perfumery. This practice obtains largely in the Bombay Presidency, and, though not so common, is by no means unknown in other parts of India. It is very desirable to arrest the progress of this pernicious practice, and we have decided therefore to charge all perfumed spirit, irrespective of the capacity of the vessel containing it, with a duty of six rupees the gallon. We propose to levy this rate irrespective of the strength of the spirit, because the process of testing for strength when the spirit is really intended as a perfume and is imported under the labels of well-known makers

would not be practicable. When bottles of such perfume are opened before sale they lose their value. This rate of duty may be considered high, but the temptation to secret drinking in respectable classes of unwholesome spirit thus disguised, to the detriment of the regular and open liquor trade, is very strong, and a high duty is required to counteract it and prevent the loss to the revenue which is now found to occur.

"It has been found convenient also to include in the same Bill certain other amendments on cognate though not closely connected points.

"When section 6 of the Tariff Act was repealed by Act IX of 1885, a reference to the repealed section in section 23 of the Excise Act was overlooked. The necessary alteration in the Excise Act has therefore now been made.

"An omission in the same section of the Excise Act is also corrected. That section as it now stands provides for the levy of duty on spirits imported by land from beyond the limits of British India, the import of which does not fall within the terms of the Tariff Act. This provision has been extended to wine also in the Bill. The need for this had not before arisen, as wine has not hitherto been manufactured in India or in any place from which wine could be imported without being liable to the duty imposed by the Tariff Act. It has now arisen in consequence of the manufacture of wine in Kashmir. The particular case of Kashmir could have been met by declaring Kashmir to be foreign territory under section 5 of the Tariff Act. But it is deemed preferable to make a general provision in the Excise Act as has been done in the Bill.

"Lastly, the Madras Government has found that certain provisions of the Sea Customs Act do not fit in with the excise arrangements now in force in that Presidency. These require that the transport of country spirit by sea from one part of the Presidency to another under bond should be permitted, while Chapter XIV of the Sea Customs Act does not allow this procedure. The Act has therefore been amended so as to render legal the Madras excise arrangements, and to make it clear that the duty on spirit so transported is the excise-duty as provided in the Sea Customs Act and not the tariff rate prescribed by section 7 of the Tariff Act."

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also introduced the Bill.

REPORTS OF SELECT COMMITTEES.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

The Hon'ble MR. SCOBLE also presented the Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872.

The Hon'ble MR. SCOBLE also presented the Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882.

SELECT COMMITTEES.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to consolidate and amend the law relating to Guardian and Ward.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to amend the law relating to Imprisonment for Debt.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Hon ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877.

The Motion was put and agreed to.

REPORT OF SELECT COMMITTEE.

The Hon'ble MR. PEILE presented the Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

The Council adjourned to Friday, the 14th January, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 11th January, 1887.

Government of India Central Printing Office.—No. 326 L. D.—13-1-87.—308.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 14th January, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble R. Steel.
The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.
The Hon'ble Rana Shankar Bakhsh Singh Bahadur, C.I.E.
The Hon'ble Syud Ameer Hossein.
The Hon'ble Peári Mohan Mukerji.
The Hon'ble W. S. Whiteside.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved that the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs be referred to a Select Committee consisting of the Hon'ble Mr. Peile, the Hon'ble Mr. Steel, the Hon'ble Rao Saheb Vishvanath Narayan Mandlik and the Mover.

The Motion was put and agreed to.

GENERAL CLAUSES BILL.

The Hon'ble MR. SCOBLE also moved that the Report of the Select Committee on the Bill for further shortening the language used in Acts of the Governor General in Council, and for other purposes, be taken into consideration. He said:—

"This is in continuation of the Act passed in 1868 for avoiding the repetition in every Act of this Council of certain formal clauses and definitions

which are necessary to secure the proper operation of those Acts. The Bill which I now ask the Council to pass is the result of eighteen years' experience in the Legislative Department. It has been very carefully considered both in the Legislative Department and by the Select Committee, and I think it will prove a very useful addition to the Statute-book."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

SEA CUSTOMS ACT, 1878, EXCISE ACT, 1881, AND TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR A. COLVIN moved that the Bill to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also moved that in section 9 of the Bill, line 2, after the word "Act" the following words be inserted, namely:—

"(*a*) 'Rs. 5' shall be substituted for 'Rs. 4' in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of 'Liqueurs'; and

"(*b*)".

He said it had been brought to his notice, subsequent to the introduction of the Bill last Friday, that while the rate of duty on imported liquor was raised from Rs. 4 to Rs. 5, mention of liqueurs had been omitted. In the previous Act the duty on liqueurs was the same as on other imported liquor. The object of the amendment was to restore the former state of affairs.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN said:—"I have to move an amendment having for its object the further raising of the import-duty on perfumed spirits. It has been urged upon me since the last meeting of this Council that to maintain the duty on perfumed spirits at Rs. 6 per imperial gallon will not entirely attain the object we have in view, which is to put an end to this illicit

trade in liquor in the guise of perfumed spirits, and that we must not only impose the duty on all perfumed spirits, in whatever quantity imported, but must also raise it. In England the rate on perfumed spirits is 16*s.* 6*d.* as against 10*s.* 5*d.* on ordinary spirits, or more than half as much again; and it is now proposed to impose on perfumed spirits a rate of Rs. 7-8 instead of Rs. 6, which was the original figure in the Bill, as against Rs. 5, the duty to be imposed upon ordinary spirits. The amendment, therefore, which I have to propose is that Rs. 7-8 be substituted for Rs. 6 in section 9 as the rate of duty to be levied and collected per imperial gallon or six quart bottles on perfumed spirits whether in wood or in bottles."

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN said :—

"I have another word to add, before proposing that the Bill be passed, with reference to a representation which reached me this morning from one of the principal firms connected with the importation of European liquor from which I will briefly quote, adding what I have to say in reply to it. The firm say :—

'We respectfully beg to point out that the incidence of the duty is 25 per cent. more than on that now levied, and that no case spirit (that is, in bottle) is imported at any thing like the strength, 25 per cent., under London proof to which the duty is proposed to be augmented. Consequently the enhancement is virtually an additional impost on the spirit trade. As an illustration we mention Hollands gin, which is usually imported in cases of 15 squares measuring 4 gallons (nearly) per case, the spirit being London proof. This gin costs 11*s.* (eleven shillings) per case or, at 1*s.* 5¾*d.* per rupee, Rs. 7-7, and already pays the enormous duty of Rs. 16 per case, or more than double its value. The increased impost at Rs. 5 per imperial gallon will be equal to Rs. 20 per case, or very nearly three times cost price of gin.

'As we understand the object of the additional impost on a sliding scale was to give relief to importers of spirits under London proof, it will be seen that such object is greatly nullified by the enhancement of the duty, which becomes tantamount to an additional burthen on the spirit trade.

'We believe the exigencies of the State do not call for the additional duty, and, if the measure is not intended to be one of relief, the reason of it is unnecessary.'

"It has never been denied that the enhancement of duty is virtually an additional impost on the spirit trade, but the grounds upon which it was found necessary to make that enhancement were, I hope, sufficiently explained at the

last meeting of the Council, and will be found carefully stated in the remarks which I made on that occasion. The object of the Government, as I then stated, was not to increase the excise-revenue, but to meet the representations which the Trade had put before it, and the abuses which had come independently to its knowledge, by arranging that the excise-duty should fall equitably upon all classes of imported liquor, while its own revenue should be subjected to no loss. With every desire to meet the wishes of those who are engaged in the import of European liquor, it is impossible, for the reasons which I gave at the last meeting of this Council, to make any other arrangement than that which I propose, which shall at once guard the trade from improper advantage being taken of the mode in which the duty is levied and protect the Government revenue. I now move that the Bill, as amended, be passed."

The Motion was put and agreed to.

INDIAN EVIDENCE ACT, 1872, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872, be taken into consideration. He said:—

"This is a short Bill for the purpose of giving to revenue-officers in the discharge of their duties when conducting prosecutions before Magistrates the same protection as is now given to police-officers. It was found very necessary, in the prosecution of offences against the revenue laws, that revenue-officers should not be compelled to disclose, upon cross-examination, the names of the informers upon whose information the authorities have acted, and the object of this Bill is to give that protection to revenue-officers. As the Bill was originally drafted, the protection given to revenue-officers appeared to the Select Committee to be rather too wide. In the Bill as amended it is proposed to give that protection only in cases in which they are called upon to give evidence in regard to infractions of the revenue laws."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INDIAN MUSEUM BILL.

The Hon'ble MR. PEILE moved that the Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, be taken into consideration. He said:—

"The objects of this Bill were explained to the Council by Sir Steuart Bayley in May last when he obtained leave to introduce the Bill. They are briefly—first, to alter the constitution of the Trustees of the Museum as fixed by Act XXII of 1876, and to provide for the representation of the Government of Bengal in that body; next to empower the Trustees to take over from the Bengal Government the custody of certain collections; and thirdly, to empower the Trustees to deliver over to the Bengal Government certain lands defined in the schedule and now possessed by the Trustees for the purposes of the Trust. The amendments proposed by the Select Committee are two: one of these is in section 5, by the substitution for the words 'from India' of the words 'from the meetings of the Trustees', in order to increase the efficiency of that body. The other amendment is in section 6, by the addition of the words 'all or any part of', so as to enable any part of the property mentioned in the schedule to be dealt with as desired."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INDIAN MARINE BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved for leave to introduce a Bill for the better administration of Her Majesty's Indian Marine Service. He said:—

"The object of this Bill is so fully stated in the title that it is not necessary for me to trouble the Council at any length in introducing it. But I may briefly explain that its object is to give legal sanction to the establishment of the body which is now known as the Indian Marine Service. This service, although under its present constitution it has had an existence of only about ten years, is really the outcome of a very much older body. A marine service of some sort has been in existence in connection with the Government of India ever since the British have had territorial jurisdiction in any part of the country. The service which performed the duties of a marine service was

constituted considerably more than a hundred and forty years ago, and was employed in connection with the Royal Navy in all the various operations which have taken place at sea or land through that time. It was not until 1798, however, that any distinct designation was given to the service. It was then, under the authority of the Court of Directors, denominated the Bombay Marine. I am speaking of that part of the service which was employed on the western side of India; but although the officers composing it had on board their different vessels a sort of recognized authority, even then no legal sanction was given to the constitution of this service. But in the year 1830 the Court of Directors of the East India Company, by the authority vested in them under various Acts of Parliament, declared this body to be the Indian Navy. It then became for the first time a recognized combatnnt service, and the officers composing it took rank with the officers of the Indian Army, having like them local rank, and also with the officers of the Royal Navy, ranking next below them. This Indian Navy was, as I have said, a combatant body, and was largely employed in various maritime operations not only in the Indian seas, India, but in China and elsewhere, when the East India Company were engaged in maritime operations. It seems open to question, however, whether this force had any competent jurisdiction on the high seas; although the East India Company had power under the law of England to raise forces and employ them in the East, it appears at least doubtful whether they had any authority to employ vessels of war upon the high seas. But however that might be, the authority was never questioned, and this force did excellent service both on sea and land until the date of the transfer of the administration of the Government of India from the East India Company to the Crown, when it was determined that while the local constitution of the Indian Army should be transformed, this Indian Navy Service should be abolished. And accordingly in 1863 this service, in one form or another of more than 150 years' standing, came to an end—a service, I may observe, which was not only most useful, but was an extremely economical service. Well, although the Indian Navy was abolished, it was found immediately necessary to have a Marine Establishment of some sort to carry on various services, such as the transport of troops from port to port, and so forth, and for guarding those maritime possessions which could not be taken care of by the Royal Navy to the full extent; and accordingly a Bombay Marine Service was established for the west of India, which continued in force until the year 1877 under the Government of Bombay. This service was essentially a non-war service, but was mainly employed in civil duties in connection with the Government. On the eastern side of India, moreover, there has been also, from the earliest times, a Bengal Marine Service; and although it has never had any definite recognition

from the East India Company or from any other authority, it has been at different times largely employed in very useful service, including the China War of 1842 and other operations. That service continued under the name of the Bengal Marine until the year 1877, when it was determined to amalgamate it with the Bombay Marine, and the whole became an amalgamated service. That is the service with which we are now concerned. This service, as I have explained, has at present no legal sanction, because it does not come under the Mercantile Marine Act, nor does it come under the Acts applicable to the Royal Navy. Nevertheless, it has done very useful public service and has got on very well without any definitive legal status. And it may be explained that the reason for this Bill is not in consequence of any alleged misconduct or want of good discipline on the part of the Indian Marine, because the Government has had every reason to be quite satisfied with the conduct of both officers and men, but simply to supply what is an anomaly in its present constitution. The fact is that the Indian Marine, I may say, reflects, in a kind of indefinite way, the result of the discipline of the bodies with which it was associated, namely, the Army and the Royal Navy. It was well observed by Mr. John Stuart Mill that it is not the people who have recourse to Law Courts who benefit most by them, but the people who have no need to go to law who are really benefited by the Law Courts. And so you may say that the Indian Marine, although it has no law of its own, has derived a great deal of benefit from the regulations and laws which govern the bodies—the Army and the Navy—with which it is associated. But it is certainly desirable that it should become a legally recognized body; and accordingly Her Majesty's Government introduced into Parliament in 1884 and passed into law a Bill which empowered the Indian authorities to make laws and regulations for the good government of the Indian Marine. That is the object of the present Bill, which in form closely resembles the clauses of the Marine Discipline Act and the Articles of War which govern the Royal Navy This Bill will only have effect in Indian waters, the Red Sea, and east of the latitude of the Cape of Good Hope, just as in the olden times it was not contemplated that the service should be employed outside Indian waters. Further, the duties of the service are contemplated to be of a non-warlike character, such as the transportation of troops, the suppression of piracy and generally the police of those parts of the seas which are not reached by Her Majesty's ships. But the Bill also provides, and the enabling Act of Parliament also provides, that in case of war the whole service, if necessary, should come under the authority of the Royal Navy, and should in fact for the time form part and parcel of the Royal Navy, qualified to act as a combatant force."

The Motion was put and agreed to.

The Hon'ble MAJOR-GENERAL CHESNEY also introduced the Bill.

The Hon'ble MAJOR-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort Saint George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 28th January, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 21st January, 1887.

Government of India Central Printing Office.—No. 355 L. D.—24-1-87. 308

BENGAL SEC. RA
LIBRARY.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 28th January, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble R. Steel.
The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.
The Hon'ble Rana Shankar Baksh Singh Bahadur, C.I.E.
The Hon'ble Syud Ameer Hossein.
The Hon'ble Peári Mohan Mukerji.
The Hon'ble W. S. Whiteside.
The Hon'ble G. H. P. Evans.

INDIAN MARINE BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved that the Bill for the better administration of Her Majesty's India Marine Service be referred to a Select Committee consisting of the Hon'ble Messrs. Peile, Scoble and Whiteside and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

SUITS VALUATION BILL.

The Hon'ble Mr. SCOBLE presented the Report of the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

The Secretary, with the permission of His Excellency the President, read the following remarks by the Hon'ble RANA SHANKAR BAKSH SINGH, as the Hon'ble Member would not be able to attend the next Meeting of the Council.

"My Lord,—With your Lordship's permission I beg to offer a few remarks on the Bill now before Your Excellency's Council.

"There is nothing in the present Bill which is open to objection or which calls for criticism.

"The main object of the Bill seems to be to obviate difficulties in estimating the value of the subject-matter of suits for the purpose of determining the jurisdiction of Courts with respect thereto. It not unfrequently happens that the lower Court, under-estimating the value of the subject-matter of a suit brought before it, considers that it falls within its jurisdiction, while on appeal the appellate Court holds that the lower Court had no jurisdiction and reverses its decision solely on this ground. The result is that all the proceedings gone through and the evidence produced by the parties concerned are rendered useless, and the case has to be re-tried by a Court of competent jurisdiction. It also happens that the plea of want of jurisdiction, although it was not put forth in the lower Court, is urged in the appellate Court, which—finding from the record of the case that, in trying a suit the value of the subject-matter of which was too high, the lower Court had really exceeded the limits of its jurisdiction—sets aside its decision, and the whole proceeding is quashed.

"Sometimes the case is remanded by the appellate Court to be re-tried with special reference to the value of the subject-matter, and then, finding that the suit as regards the value of the property in dispute was beyond the jurisdiction of the lower Court, the appellate Court cancels the whole proceeding and directs the case to be re-tried by a Court of competent jurisdiction.

"These, my Lord, are the most obvious instances in which the law, as it now stands, fails to accomplish its object, and to remedy such defects, legislation on the lines of the present Bill seems to be necessary.

"The Bill gives Local Governments the power to make rules regarding the mode of estimating the value of the subject-matter of suits. This is necessary, because different rates prevail, not only in different provinces, but in the different parts of the one and the same province, and because no definite provisions could be made in the Bill itself for estimating the value of the subject-matter of suits in different provinces or parganas for the purpose of determining the

jurisdiction of Courts; more especially the value of land is always fluctuating, which makes it all the more necessary to invest Local Governments with the power to make rules after duly considering the different local conditions and the various and constantly varying rates prevailing in different localities, and from time to time to alter or modify the rules thus made, so as to make them applicable to land of different descriptions and capacities and to other property of which the value is always rising and falling.

"The present Bill, as amended by the Select Committee, fairly promises to fulfil the object with which it has been framed and brought before this Hon'ble Council."

MILITARY COURTS OF REQUESTS ABOLITION BILL.

The Hon'ble MAJOR-GENERAL CHESNEY presented the Report of the Select Committee on the Bill to abolish Military Courts of Requests as established by Indian Military Law.

CRIMINAL PROCEDURE CODE, 1882, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Bill to amend the Code of Criminal Procedure, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill be passed. He said:—"It has not been considered necessary to refer the Bill to Select Committee, as it consists of only two sections which involve no question of principle at all, but merely render the administration of the criminal law more convenient under the existing Act. The first section deals with the definition of 'Officer in charge of a police-station,' and the object of the amendment is to enable the business of the police-station, which is very often a considerable area, to be dealt with under all circumstances and at all times whether or not the chief officer in charge happens to be present at the police-station at the time the charge or application is made. The second section of the Bill simply relates to special jury panels in the three Presidency-towns. It has been found in Calcutta that the special jury panel is not as constituted under the Act of 1882 sufficiently large to ensure the attendance of special jurymen without causing inconvenience to the classes from which special jurors are selected, and this Bill substitutes 400 for 200 as the number of gentlemen liable to be summoned as special jurymen. I think both

these amendments will facilitate the administration of justice, aud there is no objection whatever raised to them, although the Bill has now been for some time before the public. I, therefore, beg leave to move that the Bill be passed."

The Motion was put and agreed to.

The Council adjourned to Friday, the 11th February, 1887.

S. HARVEY JAMES,
Offg Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM,
The 1st February, 1887.

Government of India Central Printing Office.—No 447 L D—1-2-87—308

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 11th February, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble R. Steel.
The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.
The Hon'ble Syud Ameer Hosein.
The Hon'ble Peári Mohan Mukerji.
The Hon'ble W. S. Whiteside.

INDIAN COMPANIES ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. He said:—

"It will be in the recollection of the Council that the origin of this small Bill was a suggestion from the High Court of Bombay that, where a company went into liquidation under the Companies Act, the clerks, labourers and workmen of the company should have priority in respect of their wages over other creditors. The Select Committee in considering the matter came to the conclusion that in dealing with this question of giving priority to one class of creditors the general question of priority in respect of public claims should also be considered; they

have therefore amended the Bill so as to give priority to all claims of the Crown, which perhaps it was not absolutely necessary to provide for by legislation, and also to give priority to rates and taxes due to local and municipal authorities. The Bill therefore gives priority to all revenue, taxes, rates and cesses payable to Her Majesty or to any local authority which have become due within twelve months before the date of liquidation. In regard to the primary object of the Bill, namely, the salaries of clerks and the wages of servants and workmen, the Committee thought it wise to adopt a suggestion of the Bengal Chamber of Commerce and the Calcutta Trades Association, who pointed out that in this country the salaries of clerks and the wages of servants and workmen do not approximate so closely as they do in England. The Bill has been therefore amended by empowering clerks and servants to recover salaries to an amount not exceeding Rs. 1,000, and labourers and workmen to recover wages to an amount not exceeding Rs. 500, in respect of services rendered within two months before the date of liquidation. With these amendments, which I think will commend themselves to the approval of the Council, I move that the Bill be passed."

The Motion was put and agreed to.

PROVINCIAL SMALL CAUSE COURTS BILL.

The Hon'ble MR. SCOBLE also presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

NATIVE PASSENGER SHIPS BILL.

The Hon'ble SIR A. COLVIN presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships.

LOWER BURMA COURTS BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to consolidate and amend the law relating to Courts in Lower Burma. He said :—

"The defective constitution of the Special Court, the increase of business in the Court of the Recorder of Rangoon, and the complaints which have been made respecting the finality of the decrees and orders of the Recorder in some cases, and respecting the delay and expense involved in appeals to the High Court at Calcutta in other cases, having rendered necessary a revision of the

existing arrangements for the administration of justice in Lower Burma, the Government of India has decided, with the sanction of the Secretary of State in Council, to constitute at Rangoon a Chief Court on the model, so far as practicable, of the Chief Court at Lahore.

"The main object of this Bill is to give effect to that decision.

"It is proposed by the Bill to abolish the Court of the Recorder, the Court of the Judicial Commissioner and the Special Court, and to establish in their place a Chief Court which will be for Lower Burma the Court of ultimate resort in India.

"The Chief Court is to consist of three or more Judges, of whom one at least must be a barrister of five years' standing. That Judge will be styled Recorder, and one of the other Judges will be styled Judicial Commissioner. The other Judge or each of the other Judges, as the case may be, is to be appointed as a Recorder or as a Judicial Commissioner, as the Governor General in Council sees fit. The Recorder or Recorders will ordinarily exercise the original jurisdiction of the Court and such other jurisdiction as has reference to the Town of Rangoon, while the Judicial Commissioner or Judicial Commissioners will ordinarily exercise the appellate and revisional jurisdiction of the Court in reference to the Courts subordinate to it beyond the limits of the Town of Rangoon, and discharge with respect to those Courts the functions of superintendence which are vested in the Chief Court.

"That is the main object and purpose of the Bill; the other provisions are really subsidiary, and I think I shall only unnecessarily occupy the time of the Council if I go further into details at this stage with regard to this Bill:"

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

SUITS VALUATION BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of

determining the jurisdiction of Courts with respect thereto be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. He said :—

"When my learned friend Mr. Ilbert in August last introduced this Bill, he described it as a little Bill of no great importance. I think I may accept that definition with the addition of the words 'except to litigants in the Civil Courts.' As the Council is no doubt aware, when a suit is brought in a Civil Court, it becomes necessary to value the subject-matter of that suit for two purposes—first to ascertain the amount of the stamp-duty to be levied upon it under the Court-fees Act, and secondly for the purpose of ascertaining the Court within whose jurisdiction the suit properly falls. It might perhaps appear at first sight that the one valuation should answer both purposes. But that has not been found to be the case, particularly in regard to suits concerning land. It has been laid down by the High Courts in many decisions that the law may well establish for purposes of revenue certain fixed rules as to the valuation of suits; but such valuation obviously cannot be accepted as a criterion of a matter of fact such as the actual amount or value of a claim upon which the jurisdiction of the Court depends. That being so, and the Courts having declined to accept the court-fees valuation as available for the purposes of jurisdiction, it might be suggested that it would be desirable by legislation to enact that one valuation should suffice for both objects. That has been attempted in the Presidency of Madras, but there it has been found that the court-fee system of computation, being based upon an arbitrary multiple of the revenue paid in cases where land was the subject of litigation, admits of great inequality of taxation and is not consistent in principle; and the Government of Madras has reported that suits for land in that presidency were greatly under-valued, with the result that Munsifs, while nominally disposing of suits only valued at Rs. 2,500 or less, were in fact deciding cases which involved much higher values. The Government of Bengal have also expressed their opinion that in practice the revenue of an estate affords no clue whatever to its value, and, in any system under which the jurisdiction of Courts is settled by the amount of revenue payable by an estate, it is decided at haphazard. Therefore, with regard to land-suits, I think the Council will be of opinion that some other system than that established by the Court-fees Act ought to be admitted

in order to ascertain the value of a suit for purposes of jurisdiction, and there appears to be a general consensus of opinion that the market-value of the land ought to be taken as such value. The difficulty, however, arises as to how that market-value is to be simply, cheaply and expeditiously ascertained. In a country like this it is found practically impossible to discover any uniform rule which would apply to all parts, and it has, therefore, been proposed in this Bill to leave it to the Local Governments to make rules for determining the value of land for the purposes of jurisdiction in suits relating to land.

"The first part of the Bill relates to such suits, and it provides that the Local Government may, with the previous sanction of the Governor General in Council, and after consultation with the High Courts or other chief judicial authorities within the province, make rules for the purpose of determining the value of land in local areas according to the general or special circumstances of the district. And it provides that these rules shall be published so as to give the opportunity of criticism upon them before they come into effect.

"The second part of the Bill relates to suits other than suits for land, and it lays down the simple rule that the valuation which is made for the purposes of the Court-fees Act in such suits shall be the valuation adopted for purposes of jurisdiction.

"The third part provides a special procedure for cases on which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an Appellate Court.

"The first part of the Bill, I may say here,—and I do so because one of my hon'ble colleagues on the Select Committee, though thinking that the Bill is well framed for the purpose it is intended to serve, does not see the necessity for it,—the first part of the Bill is permissive, and I think that consideration meets the objection which the Hon'ble Mr. Mandlik has made to it. He says that in Bombay the Bill is not necessary. If that is so, it is very easy for the Government of Bombay not to make any rules under it, and to go on with their old system. But if it should chance at any time that the Government of Bombay find it desirable to make rules, they will be at liberty to do so. In other parts of the country the High Courts and local authorities are in favour of it. Where it is unnecessary, it will do no harm: where it is put in force, I hope it will do a great deal of good."

The Motion was put and agreed to.

MILITARY COURTS OF REQUESTS ABOLITION BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved that the Report of the Select Committee on the Bill to abolish Military Courts of Requests as established by Indian Military Law be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MAJOR GENERAL CHESNEY also moved that the Bill, as amended, be passed. He said :—

"I may explain to the Council that the amendments which have been made by the Select Committee are only of a verbal character. Enquiries which were made by the Select Committee have satisfied them that if this Bill is passed into law creditors would still have sufficient remedies against their debtors in the ordinary Courts of the country: the jurisdiction which the Civil Courts now possess is sufficiently extensive to enable the operation of the Military Courts of Requests to be suspended. I may also explain that if this Bill is passed into law it will not affect the Native officer, as his case is provided for by the British Army Act. The Bill will apply to soldiers of the regular forces within the meaning of the Act, that is to say, to private soldiers and non-commissioned officers; a Native of India, who is a soldier or non-commissioned officer of the regular forces within the meaning of the Act, will be liable to be sued in any Civil Court having jurisdiction under Chapter II of the Code of Civil Procedure, but with the limitation provided by the British Army Act of 1881 that, unless the debt exceeds £30, exclusive of costs, a soldier shall not be compelled to appear in that Court. Secondly, under the Indian Articles of War, whatever the amount of the debt may be, a soldier may not be arrested under any process issued by a Civil Court. Lastly, under the British Army Act, under the Indian Articles of War and under the Code of Civil Procedure, if a Civil Court passes a decree against a private soldier or a non-commissioned officer, execution cannot be had against his pay and allowances or against his arms, accoutrements, regimental necessaries or equipments. These are provisions which the Bill before the Council does not touch."

The Motion was put and agreed to.

PUNJAB TENANCY BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Peile be substituted for the Hon'ble Sir S. Bayley as a Member of the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab and that the Mover be added to the Committee.

The Motion was put and agreed to.

PUNJAB LAND-REVENUE BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Peile be substituted for the Hon'ble Sir S. Bayley as a Member of the Select Committee on the Bill to declare and amend the Land-revenue Law of the Punjab and that the Mover be added to the Committee.

The Motion was put and agreed to.

The Council adjourned to Friday, the 25th February, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 15th February, 1887.

Government of India Central Printing Office.—No. 490 L. D.—15-2-87.—308.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Thursday, the 24th February, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I E., P.C., *presiding.*
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I E.
His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., K.C.I.E., R.A.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir W. W. Hunter, K.C.S.I., C.I.E., LL.D.
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.
The Hon'ble Colonel Sir W. G. Davies, K.C.S.I.
The Hon'ble Syud Ameer Hossein.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble G. H. P. Evans.
The Hon'ble J. W. Quinton, C.S.I.

PROVINCIAL SMALL CAUSE COURTS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. He said:—

"I think I need detain the Council only very shortly with reference to this Bill. The main object of the Select Committee in dealing with this Bill was to

bring the Provincial Small Cause Courts, which are undoubtedly rendering very effectual service to the administration of justice throughout the country, into line with the Civil Courts generally; and we have therefore provided that these Courts should be under the administrative control of the District Judges and subject to the superintendence of the High Courts. We have also established a system for the appointment, promotion and discipline of ministerial officers. With regard to the jurisdiction of the Small Cause Courts, the provisions of the original Act, XI of 1865, gave rise to a great deal of litigation in order to determine whether a suit was or was not of a nature cognizable by a Court of Small Causes. We have endeavoured for the future to avoid that difficulty by specifying in a schedule the suits over which these Provincial Small Cause Courts shall not have jurisdiction, thereby giving jurisdiction in all cases which are not thus excepted. The third point of importance to which I think it necessary to call the attention of the Council is this. A recent decision of the Privy Council has given a very restricted interpretation to section 622 of the Code of Civil Procedure, and has limited the revisional power of the High Courts only to cases in which an error in the exercise of jurisdiction has been committed, thereby leaving it competent to inferior Courts to commit manifest mistakes of law without the possibility of such mistakes being corrected by a higher tribunal. We have drawn section 25 of the Bill so as to restore to the High Courts the jurisdiction which for many years they were believed to possess and which it is very desirable they should continue to exercise, and we have enacted that the High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

"These are the principal features of the Bill to which I think it necessary to draw attention. The other sections are devoted to the provision of an efficient method of carrying out the duties which devolve upon these Courts. They are Courts which I believe are very much appreciated in the country, and their working has I believe been highly conducive to the good of the people, who have thereby been able to obtain speedy and substantial justice. And I think the best proof of the popularity and usefulness of these Courts is to be found in a return which I have obtained from the two Presidencies of Bengal and Madras, from which it appears that 30 per cent. of the civil suits dealt with by the Courts in 1885 in the Bengal Presidency were tried and disposed of by Small Cause Courts, and in the Madras Presidency 32 per cent. of the cases were similarly disposed of."

The Hon'ble SIR WILLIAM W. HUNTER said:—

"My Lord, I have closely watched the passage of this Bill through its various stages. For it belongs to a class of measures which, with the best intentions on the part of their framers, sometimes produce unexpected results. I confess that I never see a consolidating or codifying Act launched from this central legislature, without grave anxiety as to its practical operation in the varied Provinces, and among the diverse populations, whom it will, for good or for evil, affect. The details of the measure have already been fully explained, together with the changes which have found a place in it. I shall, therefore, detain the Council with only a few remarks on certain of its more general aspects.

"This measure marks the end of what may be termed the experimental stage of Small Cause Court legislation in India. I well remember the apprehension which was felt when those tribunals began to be generally introduced into the rural districts of Bengal. To most judicial officers, and to a large section of the public, it seemed a perilous experiment to dot the districts with Courts from whose decision there was, in the majority of cases, no appeal. The system might work well enough in large towns, it was said, under the safeguard of a vigilant public opinion, but it was a dangerous one for remote country places. How completely these apprehensions have been falsified it is not needful for me to relate. I believe that no class of officers have done so much, during the past quarter of a century, to render legal redress easy, speedy and cheap in the ordinary transactions between man and man, as the Judges of the Small Cause Courts. They found the system an experiment. They have made it a success. The present Bill takes up the system at this latter stage. It extends and simplifies the powers of the Small Cause Courts, it incorporates them more closely into the regular judicial organisation of the country, and it brings their ministerial officers into line with the ministerial officers of the general administration. In no particular section will any large or violent change be discovered. But it will be found, I think, in practical working, that the Bill as a whole has the effect which I describe.

"In so doing the Bill only gives formal effect to the fact that the experimental stage of the Small Cause Court system in India is now a thing of the past. The Bill clears away as far as possible the growth of conflicting decisions which have gradually overlaid the old law, and the causes of the conflicts. But in so doing, and in its general tendency to consolidation, it has had to reject as well as to accept the views of local authorities, whose opinions are well entitled to respect. It may possibly be that some of those views have been unwisely re-

jected, and that local inconvenience may in consequence arise. That is a danger which besets every consolidating Act that emanates from this central chamber. But I wish to bear testimony to the patience and care with which all local opinions have in this case been weighed. The *précis* of those opinions alone forms a folio volume of 195 pages. Apart from the consideration given to these opinions by your Lordship's Executive Council, each member of the Select Committee has had his attention specifically directed to every opinion which has been received by Government under each section of the Bill; and each opinion has been discussed, section by section, by the Select Committee as a whole. Throughout the five years during which I have had the honour of sitting in this Council, I have never acted on a Select Committee in which so large a mass of evidence has been more thoroughly sifted, or in which more care has been taken to inform the non-official members (if I may so designate myself *ad hoc*) of the views of the local officers, or to satisfy them that the right course has, in each case of conflict, been selected. While, therefore, the Bill must be acknowledged to be subject to the chances of local inconvenience which attend all attempts at consolidation and codification, I think that those chances have in the present measure been reduced to a minimum. I believe that the changes which it effects are justified by the facts: that they will extend the usefulness of the Courts; and that they will improve the position and the prospects of the ministerial officers."

The Motion was put and agreed to.

LOWER BURMA COURTS BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to consolidate and amend the law relating to Courts in Lower Burma be referred to a Select Committee consisting of the Hon'ble Messrs. Peile and Whiteside and the Mover.

The Motion was put and agreed to.

NATIVE PASSENGER SHIPS BILL.

The Hon'ble SIR A. COLVIN moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also moved that the Bill, as amended, be passed. He said:—

"In moving that this Bill as amended be passed I have only to add that the Select Committee have so arranged the clauses of the Bill as to provide for

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the various objects for which, as explained at the time, it was introduced, and that the Report of the Select Committee briefly embodies all the information necessary. But I may draw more particular attention perhaps to two sections in which we have sought to provide for the greater convenience of the classes of passengers to whom this Bill applies. The first of these is section 30, sub-section (*f*), which provides that the Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place and in such manner as the Local Government may fix in this behalf, by a medical officer to be appointed by the Government for the purpose. The object of the introduction of this provision is with special reference to the convenience of Native ladies who may happen to be passengers, and to obviate the recurrence of cases which have at various times arisen, in which causes of complaint have been brought to the notice of the Government, which, in the absence of any such provision, was unable to take the measures necessary to guard against their recurrence. The other point is with reference to section 53, clause (*a*) (*b*), which gives the Local Government power to make rules to regulate the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board; the object of this provision again being to meet the case of Native passengers arriving at and being detained in some outport of embarkation, during which time the provisions which they have brought with them for the journey are gradually consumed, and they themselves subjected to very serious inconvenience and discomfort. We have therefore given the Local Government power to provide for the departure of a ship within a given time, so that the passengers may not be put to needless inconvenience. I do not think it is necessary for me to say anything further in reference to the Bill, the Report of the Select Committee disposing of anything further to which it is necessary that attention should be called."

The Motion was put and agreed to.

PUNJAB TENANCY BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Quinton be added to the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab.

The Motion was put and agreed to.

PUNJAB LAND-REVENUE BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Quinton be added to the Select Committee on the Bill to declare and amend the Land-revenue Law of the Punjab.

The Motion was put and agreed to.

GUARDIANS AND WARDS BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Quinton be added to the Select Committee on the Bill to consolidate and amend the law relating to Guardian and Ward.

The Motion was put and agreed to.

SINDH-PISHIN RAILWAY BILL.

The Hon'ble SIR THEODORE HOPE moved for leave to introduce a Bill to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway. He said:—"I may commence by explaining that the North-Western Railway is the name which we now give to the entire system of railways on our North-Western frontier, which up to two years ago was composed of several totally disconnected and partially incomplete parts. The Sindh, Punjab and Delhi Railway Company held a very large section, that is to say, from Delhi down to Multan, and again from Kotri down to Karáchi; the Government holding the line from Lahore up to Pesháwar, and again from Multan down to Kotri, and also the very large loop line called the Sindh-Saugor Railway, together with a very important work, partly completed and partly under construction, designed to connect the Province of Sindh with the plateau of Pishin and Biluchistan. It was considered necessary for administrative purposes that the whole should be consolidated into one administration, in order that, if complications should at any time arise, then the entire regulation of the traffic might be in the hands of the Government without question; and this has now been effected, the Sindh, Punjab and Delhi Company's Railway having been acquired, and the whole brought under one responsible head. This railway comprises several sections, and one of these is the subject of the Bill which I have now the honour to lay before the Council. The Sindh-Pishin section starts from the province of Sindh, and it reaches the elevated plateau of Pishin by two distinct routes: one portion may be called the Harnai, as it goes up the Harnai Valley, and reaches the plateau by that way; but besides that there is another line which is called colloquially the Bolan Railway. Both are in reality a section of the North-

Western line. This entire North-Western line is naturally liable to be placed under requisition for military purposes, but it is not considered necessary at present to reserve any special power over the traffic on that account, except on the comparatively small portion which leads to the most important part of the southern frontier. It is obvious that, should complications take place, the small necks of line passing up there must necessarily be entirely taken up by the movement of large bodies of troops and stores, and could not afford any accommodation to the public at all. But, besides this, the Sindh-Pishin section has another special feature with perhaps a more direct bearing on the object of this Bill than the other; that is to say, that both these two routes which I have mentioned—the Harnai and the Bolan routes—pass through very stupendous mountain gorges, first of all at the bottom and secondly near the top. Now, in fact, each of these is what is termed in Europe a regular mountain line, displaying the very highest engineering skill, and most difficult works, which I venture to say have been constructed in the most admirable manner. However well such lines may be constructed, they are obviously very difficult to complete satisfactorily, and are liable to interruptions, specially at the outset, and until the works have become thoroughly settled and the capricious action of the mountain streams has been thoroughly understood and mastered. Those who are in the habit of going to Darjiling must be aware that landslips occur both from above on to the line, and in portions below the line, and that not unfrequently stoppages of the traffic take place, and it has taken considerable expenditure for years to place the line in the satisfactory condition that it now is. Those of us who can look back further to the construction of the great Bhor and Thul Ghát lines will recollect that interruptions of this class were extremely frequent in the earlier times, and even led to accidents. On this account, if we were to pay very strict regard to the protection of the public, we might possibly hesitate to throw open these passes to the Pishin plateau, which have been lately completed, until they have been tried and had worked for a very considerable period. But, on the other hand, if we were thus to postpone their opening, we should impose upon the public of Pishin and Quetta very serious inconvenience and very heavy cost. The difficulty of reaching the Pishin plateau now is very great, and can only be thoroughly understood by those who have had the misfortune to be obliged to surmount it. The cost of all provisions and stores and of everything in Pishin is something utterly abnormal. I do not exaggerate when I say that servants who in ordinary places can be obtained at Rs. 10 a month are extremely difficult to get there at Rs. 25, owing to the isolation of the country. As soon as we can get this railway utilised, all these wages and also the high price of provisions and stores will be brought to their proper bearings. We think, therefore,

that it is in the interest of the public, notwithstanding the risks that may be incurred, to throw the line open to them without further delay. At the same time, in order to make the public, on the one hand, fully aware of a certain amount of risk which they will incur, and, on the other hand, to protect the interests of the State, we propose to extend to this line only such portions of the existing Railway Act as are applicable to the particular circumstances of the case, and, moreover, to take power to limit the liability of the Government for losses on account of injury to person or property which may happen to those who make use of it. This limitation, however, it is not intended, I may say executively, to apply to the whole line. There are portions of it, for instance, the lower part, which are just as level as the plains of Bengal, and on that part no doubt, as also on the plateau, we should not desire to limit our liability, while we should apply these special provisions to such portions of the railway as they are really and reasonably intended for. As to the nature of those limitations, I may mention that what are contemplated will probably be simply of the same nature as those which are to be found in many portions of America. In the States of Massachusets and New York there are railway laws which provide for a restriction of the liability of the railway companies for losses to a certain fixed amount. I have therefore upon these grounds to solicit permission to introduce the Bill."

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE also introduced the Bill.

The Hon'ble SIR THEODORE HOPE having applied to His Excellency the President to suspend the Rules for the conduct of Business,

THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR THEODORE HOPE moved that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE then moved that the Bill be passed. He said:—"In explanation of putting the Bill through with this amount of urgency, I trust the Council will deem it sufficient if I say that the official inspection of the line previous to its being thrown open with special regulations for its safer working is now in progress; and as this is the opening of the season, the spring time, when we should naturally look to traffic after the winter being very considerable, it will be a great convenience to the public generally to

use the railway with the least possible delay. It will also give sufficient time for the fact of the opening of the railway becoming known in the regions beyond Pishin, and promote caravan traffic during the present year, before the coming winter."

The Motion was put and agreed to.

The Council adjourned to Friday, the 4th March, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 2nd March, 1887.

The Meeting fixed for the 25th February, 1887, was held on the 24th idem.

Government of India Central Printing Office.—No. 559 L. D.—2-3

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 4th March, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble J. B Peile, M.A., C.S.I.

The Hon'ble R. Steel.

The Hon'ble Sir W. W. Hunter, K.C.S.I., C.I.E , LL.D.

The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.

The Hon'ble Colonel Sir W. G. Davies, K.C.S.I.

The Hon'ble Syud Ameer Hossein.

The Hon'ble Raja Peári Mohan Mukerji, C.S.I.

The Hon'ble W. S. Whiteside.

The Hon'ble J. W. Quinton, C.S.I.

BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS BILL

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

ELECTRICITY SUPPLY BILL.

The Hon'ble SIR THEODORE HOPE presented the Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes.

The Council adjourned to Friday, the 11th March, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 4th March, 1887.

Government of India Central Printing Office.—No. 586 L. D.—4-3-87.—300.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House, on Friday, the 11th March, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir W. W. Hunter, K.C.S.I., C.I.E., LL.D.
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.
The Hon'ble Colonel Sir W. G. Davies, K.C.S.I.
The Hon'ble Syud Ameer Hossein.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble J. W. Quinton, C.S.I.

BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam be taken into consideration. He said:—

"The Bill to which I now have to ask the assent of the Council was introduced by my learned friend the Hon'ble Mr. Stokes in 1881. Its object was to consolidate the two existing Acts regarding the Bengal Civil Courts, taking advantage of the opportunity to remove certain administrative difficulties and make such ohanges in the wording of the law as the experience of the previous ten years had shown to be desirable. It was referred, in the usual course, to a Select Committee, and was circulated for opinion, and would probably have been passed into law some years ago but for a proposal to establish Appellate Benches in Bengal, which rendered it necessary to suspend its consideration.

"The Appellate Benches scheme, however, went the way of many similar proposals, and the Hon'ble Mr. Ilbert, in October last, finding himself the sole surviving member of the Select Committee on this Bill, presented a Report upon it, in which he recommended that it should be considered in connection with the Provincial Small Cause Courts Bill, and suggested that the two measures should be considered together, as far as possible, by the same Committee.

"This course has been adopted. The Provincial Small Cause Courts Bill was passed a fortnight ago, and I hope this Bill, which provides a system of Civil Courts for Bengal, the North-Western Provinces and Assam, will be passed today.

"There is not much in it, I think, to provoke adverse criticism. The lines of the Act of 1871 have been, in the main, adhered to; but we have, I hope, adopted every suggestion that pointed to a real improvement in the existing system. It would be tedious to go through an enumeration of the changes we have made: the test of an Act of this kind is in its working; and that, I trust, will prove satisfactory.

"Upon two matters, however, I think I ought to make a few observations.

"The first is that, by section 31 of the Bill, the power of appointing ministerial officers in the subordinate Civil Courts is conferred on the District Judge. There is no doubt a good deal to be said on both sides of this question, but on the whole argument, the advantage lies, in the opinion of the Committee, in favour of the plan which we have adopted. The case is well stated on the one side by Mr. Daniell, District Judge of Moradabad, who says—

'I consider it essential to the efficiency of the ministerial officers of the subordinate Civil Courts in a judgeship that a stream of promotion should be maintained from the lowest to the highest grade of these officials throughout the Judgeship If this is secured, every hard-working man knows that there are several appointments to which he can aspire, the field for his promotion is widened, and he is more encouraged to do his work well than if he had only to look to the rare vacancies in a single munsifi for advancement. On the other hand, the Judge can promote any man from any one of several situations to any other that he may be qualified for in the whole judgeship, and a stimulus is provided to efficient and industrious work which is entirely absent if the Judge can promote no one but the officials of his own office, or if, in order to promote a deserving man in a munsifi, he is obliged to place him over the heads of other men in his own office, without being at the same time able to provide any of his own officials with a step on promotion in any of the munsifis subordinate to him.'

"This view is adopted by many other experienced officers, and is supported by the Governments of Bengal and of the North-Western Provinces. On the other side, Mr. Justice Chunder Madhub Ghose argues—and Mr. Justice Wilson and Mr. Justice Tottenham concur generally in his opinion—that although it may be very desirable, as Mr. Daniell says, that, for the efficiency of the ministerial officers of the Subordinate Courts, 'a stream of promotion should be maintained from the lowest to the highest throughout the judgeship,' and although it may also be very true that this serves as a 'stimulus to efficient and industrious work,' there is another view of the matter which demands much consideration. That view is thus stated by the learned Judge—

'That for the proper and efficient working of the establishments, it is essentially necessary that the officer who is responsible for the entire work should be left to select his ministerial officers. It is not suggested that the District Judge under the law now proposed should become more responsible than he is at present for the proper working of the establishments of the Subordinate Courts. The Judges of those Courts will continue to be as responsible as they are now, and yet they would be compelled to work with men whom, had they the option, they would decline to select. And if the proposed alteration in the law is carried out, I apprehend that it will tend to lower the prestige of the Subordinate Judiciary, and to create between them and their ministerial officers a state of feeling which it is desirable to avoid.'

"I may remark here that experience shows the learned Judge's apprehensions on this score to be unfounded. Under Act XIV of 1869, all ministerial officers of the Civil Courts in each district in the Bombay Presidency are appointed by the District Judge; and the system has not been found either to lower the prestige of the Subordinate Judges, or to create undesirable relations between them and their establishments. The learned Judge goes on to say—

'No doubt, it may serve as a stimulus to efficient and industrious work if a stream of promotion be maintained. But I am afraid that in very few cases only, if in any, can the District Judge, notwithstanding his annual inspection of the Subordinate Courts, even if regularly carried out, be in a position to acquire any sufficient knowledge of the real merits of the ministerial officers of these Courts; and the result will therefore be, if the proposed change in the law be carried, that the promotions made by the District Judge will in many cases be unsatisfactory. There is nothing under the present law to prevent some sort of rule of promotion being laid down in each judgeship, under which recognition shall be secured of the claims of all deserving officers in the district on the occasion of a vacancy occurring in the higher appointments of any of the Courts; and it does not seem to me that the change as proposed would be a real improvement in that direction.'

"The conclusion to which the Committee came was that Mr. Justice Ghose had pointed out the real cure for any misapplication of the proposed system in the establishment of a settled 'rule of promotion'; and that in these days of supervision and publicity there is little danger of a District Judge misusing the power conferred on him. Systematic jobbery is, let us hope, impossible: individual nepotism is more likely to occur. In practice, it will probably be found that though the Judge appoints, the Subordinate Judges and Munsifs will nominate, their ministerial officers. But as the final responsibility must rest somewhere, we think, in the interests of the public service, it ought to rest with the officer under whose administrative control the Courts are placed.

"The other point arises on section 36 of the Bill, as to which notice of two amendments has been given.

"The first of these, proposed by my learned friend the Hon'ble Mr. Evans, I am willing to accept with the slight modification of substituting 'after' for 'in'. The second is brought forward by our hon'ble colleague, Rájá Peári Mohan Mukerji, and I will briefly state the effect of it.

"By section 36 of the Bill, it is provided that the Local Government may invest officers in the Chutiá Nágpur, Jalpaigori and Darjiling Districts, and in the greater part of Assam, with the powers of a Civil Court. The Upper Assam Sarbojanik Sova objects to this, on the ground that 'the principle involved in investing executive officers with civil powers is altogether an unsound one,' though they go on to admit that 'its partial adoption in Assam till 1871 was no doubt justified to some extent by the undeveloped condition of the province and the paucity of officers.' This justification, I am bound to say, still exists. In a letter of 11th February, 1887, which constitutes annexure No. 5 to this Bill, the Chief Commissioner writes that he—

'thinks there is some force in the contention that the office of Judge and Commissioner of the Assam Valley Districts should not be combined in the same person, but the Government of India is well aware of the circumstances under which the two offices came to be combined. If they were now separated, the Judge would have very little work to do, and the Commissioner would also not have his time fully occupied. To separate the judicial and executive administration in the Assam Valley Districts or Cachar would entail additional expenditure of public money which would be wholly unjustifiable under the circumstances of this province. These districts are not sufficiently advanced for such a measure, and, moreover, the result of such separation would be to leave both executive and judicial officers with half their time unoccupied.'

"This answer appeared to the Committee conclusive, and I doubt not it will so appear to the Council. We must do our best with the means at our command. The Rájá's amendment would involve an entire reconstruction of the civil administration of Assam, and this it would be foreign to the scope of this Bill to undertake."

The Motion was put and agreed to.

The Hon'ble RÁJÁ PEÁRI MOHAN MUKERJI moved that clause (*a*) and the word "other" in clause (*b*) of sub-section (*1*) of section 36 of the Bill be omitted. He said:—"The hon'ble and learned Law Member has tried to make out that the proposed amendment would introduce a radical change in the administration of the non-regulation provinces, but I still venture to think that my Motion involves only a very slight modification of one of the provisions of the Bill. The Bill gives power to the Chief Commissioners of the non-regulation provinces to invest any officer in those provinces with the powers of the Civil Court, either of original or appellate jurisdiction. My amendment is that only such officers should be invested with judicial powers as shall come under a class to be defined by the Local Governments, with the previous sanction of your Excellency in Council, so that the powers of the Local Governments in the non-regulation provinces should be controlled in this respect in the same manner as the Bill provides for the control of the powers of the Local Governments in Bengal and the North-Western Provinces. In the non-regulation districts, where the extent of territory is large and the population sparse, it has long been found necessary, on financial and other considerations, to unite in the same officers executive and judicial functions; but it was truly observed by Mr. Justice Field, in a case relating to Assam, reported in I. L. R. 10 Cal. 915, that 'this union of duties is an abnormal state of things, and experience of its operation is not wanting in instances to show that, in the interests of justice, the discharge of judicial duties by an officer who also exercises executive functions cannot be too carefully watched.' In another case which involved a conflict between the revenue and the judicial authorities Sir Richard Garth observed in his judgment, reported in I. L. R. 9 Cal. 925, that 'if that is the state of the law in Assam I think the sooner the notice of the Supreme Government is called to it the better.' At present any officer, whatever might be his acquirements and the character of his training, may be invested with judicial powers. In fact, the latitude of selection is practically unlimited. We have been told by an Assam association, in a petition submitted to this Hon'ble Council, that a manager of a tea-garden, an agent of a carrying company, a military officer fresh

from his regiment, or an accountant of the Public Works Department is vested with judicial powers the moment he is appointed an Extra Assistant or Assistant Commissioner. The case becomes worse when an officer having no judicial experience is vested with appellate powers and required by virtue of his office to affirm or reverse the decisions of experienced judicial officers. There could be no greater condemnation of such a state of things than is found in the remark of the Chief Commissioner of Assam made in September, 1885, that 'it is an anomalous state of things that civil appeals should in Cachar be disposed of by an officer, who probably never tried a civil suit in his life.' A system which allows of such appointments being made must be radically unsound. I do not for a moment wish to say that judicial appointments should never be given to any but experienced lawyers. Lord Lyndhurst looked out for a gentleman when he wanted a Judge. But, as regards the non-regulation districts, objection is taken not merely to investing with judicial power officers having no special training or experience, but also to the union of executive and judicial functions in the same officer. The amendment which I have moved would cause no great disturbance in the existing system. It would leave the Local Governments full discretion to select their officers from a defined class which should receive the sanction of your Excellency in Council, but it would nevertheless be a measure of reform which, without entailing any additional cost to the State, would materially lessen the force of the objections taken at present to the constitution of the judicial machinery in the non-regulation districts. My Lord, in delivering the judgment of the House of Lords in *Dimes* v. *The Proprietors of the Grand Junction Canal*, Lord Campbell took occasion to observe that in the administration of justice care should be taken to see not merely that justice is done, but that the very appearance of possible injustice is avoided. If such an assurance was necessary to satisfy the enlightened people of the British Isles of the purity of their judicial administration, how much more so is it in this country, where the vast majority of the population is steeped in ignorance, and where the policy of Governmental measures is so little understood?"

The Hon'ble SYUD AMEER HOSSEIN said:—"I do not quite see my way to support this amendment. In the first place, if my hon'ble friend carries his amendment, the effect will be that clause (*a*) will be omitted and also the word 'other' from clause (*b*), but the practical effect of the clause (*a*) will remain as it is; because clause (*b*) will enable the Local Government to invest, if necessary, any officer with the powers of a Civil Court. Section 1 of the Bill extends the Act to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North Western Provinces

and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, and except the Jhánsi Division. So all the territories mentioned in section 36, clause (*a*), are either within the jurisdiction of the Lieutenant-Governor of Bengal or the Chief Commissioner of Assam. I gather from the Report of the Select Committee that clause (*b*) was specially enacted to enable the Lieutenant-Governor of Bengal to invest those Civilians who have elected a judicial career with the powers of a Civil Court. But there is nothing in the wording of clause (*b*) to prevent any Local Government from investing any Assistant Commissioner or Deputy Commissioner in any district mentioned under clause (*a*) with the powers of a Civil Court. On the merits of the amendment I beg to say that the Government has in my opinion already done much to separate the judicial functions of officers from their executive functions. In Assam there is a Judge of the Assam Valley District. In Chutiá Nágpur there is a Judicial Commissioner with purely judicial functions. In Jalpaigori and in the districts of the Chutiá Nágpur Division there are Munsifs; and there are Munsifs also, I believe, in Assam. Considering these facts, and considering the backwardness of the districts mentioned in clause (*a*), and the financial exigencies of the State, I think the Government could not at present do more."

The Hon'ble RAO SAHEB VISHVANATH NARAYAN MANDLIK said:—"I am sorry that at this stage of the Bill I do not see my way to accept any of the amendments for which my hon'ble friend contends. If Assam is a backward province, I think these provisions might well have been suggested at an earlier stage, seeing that the Bill had been five years before the Council, when it might have been found desirable to re-cast it and divide it if possible into two, applying respectively to the regulation and the non-regulation districts. But to disturb the Bill at this stage seems to me a very impracticable measure, and I therefore regret that I shall not be able to vote for the amendment."

The Motion was put and negatived.

The Hon'ble MR. EVANS' amendment that the words "in consultation with the High Court" be inserted at the commencement of clause (*b*) of sub-section (*1*) of section 36 of the Bill was put and agreed to with the substitution of the word "after" for the word "in".

The Hon'ble MR. SCOBLE then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

ELECTRICITY BILL.

The Hon'ble SIR THEODORE HOPE moved that the Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE also moved that the Bill, as amended, be passed. He said :—

"The Select Committee, in going through this Bill, have made two alterations which appear to me of sufficient moment to bring to the notice of the Council, although they do not necessitate the republication of the Bill. We have on the one hand defined, and also strengthened, the control which will be exercised over the use of electricity for the general purposes of the public; that is to say, we have provided for the protection of the public whenever any person intends to use electricity for any public purpose or in any public place or in a place where there are likely to be a hundred or more of the public assembled, or a place which is a factory within the meaning of the Factories Act, as defined in section 3 of the Bill; the object being to take proper precautions against injury to life in places where electricity is even temporarily introduced for the purpose of lighting. This precaution, however, we have thought would be sufficiently provided for by simply requiring persons who intend to use the light to give notice to the proper authorities. We do not think it necessary, in the interests of the public in general, that such persons should be troubled to take out a license. On the other hand, we felt it would be necessary hereafter, whenever the lighting of our towns and streets on a large scale was taken up, that extensive provisions should be made to regulate the use of electricity for such purposes. At the same time, considering the backward state of the subject in India, we did not think that there was at present any necessity for prescribing the details under which Electric Lighting Companies would be required to work. We have therefore cut out from this part of the Bill the portion which related to the grant of licenses; but we have substituted in the preamble words to convey, as far as it is possible for this Council to do so, a clear warning to any persons who may hereafter wish to take up the matter of lighting our streets and towns in general, that they will not be allowed to do so

without due restrictions, and probably under the same sort of arrangements as are made for the protection of the public in general in other parts of the civilized world."

The Motion was put and agreed to.

The Council adjourned *sine die.*

S. HARVEY JAMES,
Offg. Secy. to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 16th March, 1887.

Government of India Central Printing Office,—No. 615 L. D.—17-3-87.—308.

BENGAL SECRETARIAT LIBRARY

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 25th May, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
His Honour the Lieutenant-Governor of the Punjab.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., K.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I E.
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Lieutenant-Colonel E. G. Wace.

NEW MEMBER.

The Hon'ble LIEUTENANT-COLONEL WACE took his seat as an Additional Member.

PUNJAB TENANCY BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Lieutenant-Colonel Wace be substituted for Colonel Sir W G Davies as a member of the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab.

The Motion was put and agreed to

PUNJAB LAND-REVENUE BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Lieutenant-Colonel Wace be substituted for Colonel Sir W. G. Davies as a member of the Select Committee on the Bill to declare and amend the Land-revenue Law of the Punjab.

The Motion was put and agreed to.

[*Sir Auckland Colvin.*] [25TH MAY, 1887.]

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR AUCKLAND COLVIN moved for leave to introduce a Bill to amend the Indian Stamp Act, 1879. He said:—

"The proposal to amend the Indian Stamp Act arose from certain proposals laid before us by the Bengal Government, which, in their turn, led to the issue of the Resolution in the Financial Department dated the 6th March, 1886, afterwards published in the Gazette, in which we pointed out that, with regard to policies of insurance against loss by fire, under the present law the duty is independent of the period in which the policy continues in operation, as also of the amount of the premium paid; that is to say, that the policy, whether taken out for a year or a fraction of a year, at present pays the same amount. The existing duty is, roughly, six annas per one thousand rupees, whatever the duration of the policy, and, as many policies are renewed during the currency of a year, this duty has to be paid on them as often as they are renewed. By the proposed arrangement the duty for renewals of policies for short periods will be reduced, so that persons who take out policies for a month, or three months, will pay duty proportionately. One of the Insurance Companies wrote to suggest that renewals of policy should be prohibited altogether, but we did not feel that in the present state of affairs we were in a position to endorse this proposal. The several Insurance Companies, however, will have the opportunity of furnishing us with their advice in regard to this matter while the Bill is under consideration, and we shall be, I doubt not, mainly guided by the advice so received."

"It is not proposed at present to amend the Stamp Act in any other particular."

The Motion was put and agreed to

The Hon'ble SIR AUCKLAND COLVIN also introduced the Bill.

The Hon'ble SIR AUCKLAND COLVIN also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 8th June, 1887.

S. HARVEY JAMES,

SIMLA; *The 27th May, 1887.*

Offg. Secretary to the Govt. of India, Legislative Department.

G. C. B. Press, Simla.—No. 94 L. D.—27-5-87.—308.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 8th June, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of the Punjab.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., K.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Lieutenant General G. T. Chesney, R.E., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Lieutenant-Colonel E. G. Wace.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR AUCKLAND COLVIN moved that the Bill to amend the Indian Stamp Act, 1879, be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble and Peile and the Mover.

The Motion was put and agreed to.

GAME PROTECTION BILL.

The Hon'ble MR. PEILE moved for leave to introduce a Bill for the Protection of Game in India. He said:—

"This Bill is not in the nature of a Game law, as might possibly be inferred from its title. The Government of India has never entertained the idea of adding the 'poacher' to the classes on whom the police keep an observant eye. The subject is one which has been frequently under consideration during the last quarter of a century, and the object in view has always been not the protection of private property in game but the protection of the wild creatures themselves from destruction in their breeding season. Even so, the establish-

ment of a close season in a project of law emanating from the Bombay Government was vetoed on the ground that the protection of the *feræ naturæ* from harassment might involve a more serious matter in promoting the harassment of the cultivator of the soil. I believe that Madras is the only Province of the Empire which possesses anything like a game law in the Nilgiris Game Act of 1879, which protects certain game birds from being shot in that district between the 1st March and the 30th September. I am told that under that Act there have been very few convictions, and, as there exists a Nilgiri Game Association, which disregarded an invitation to express an opinion on this Bill, the necessity for further legislation is apparently not very keenly felt there. The conclusion of the Government of India has been that, although opinions vary, there is no strong case for protective legislation of a general kind. This Bill, however, is in no way designed to pursue the unlicensed sportsman on his shooting grounds. It is, in fact, an extension of municipal and cantonment law for the protection, as far as it goes, of animals, defined as game, in their breeding season, and it merely purports to close certain markets against game during that time. It proposes to empower the Local Government, with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or the cantonment-authority of any municipality or cantonment, with the previous sanction of the Local Government, to make rules defining the word 'game' for the purposes of the Act in its application to the municipality or cantonment; to define the breeding season of any kind of game; and to prohibit, under penalty, the possession or sale within the municipality or cantonment of any kind of game during its breeding season. A wide discretion, which no doubt will be exercised with due regard to obvious exceptions, is left to Local Governments in making and sanctioning rules. The Bill introduces nothing new, but it gives legal sanction to a practice which has been in force for some time in Northern India without such sanction, and which would have to be discontinued if it were not made legal."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also introduced the Bill.

The Hon'ble MR. PEILE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

INDIAN MARINE BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY presented the Report of the Select Committee on the Bill for the better administration of Her Majesty's Indian Marine Service.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR QUINTON moved for leave to introduce a Bill to establish a University at Allahabad. He said:—

"Nearly 20 years ago a large sum of money was contributed by Native noblemen and gentlemen in the North-Western Provinces for the establishment of a central college at Allahabad; the project was sanctioned by the Government of India; and the Secretary of State, to whom the correspondence was communicated, expressed a hope that the college might thereafter expand into a university for the North-Western Provinces and the Punjab. The college was established in due course and was associated with the name of Sir William Muir, himself a distinguished scholar as well as statesman, who during his long service had been a firm supporter of the cause of education.

"For many years, however, though provided with a name, the college wanted a permanent local habitation, and was obliged to content itself with temporary lodgings in a hired house until suitable buildings could be erected for its accommodation. These were completed and formally opened last year by Your Excellency accompanied by the Lieutenant-Governor. On that occasion Your Lordship was good enough to promise on behalf of the Government of India the most favourable consideration for the proposals of the Lieutenant-Governor for the establishment of a university at Allahabad, which had been called for in connection with the Report of the Education Commission of 1883.

"That learned body held it to be a point worthy of consideration whether a new university should not then be established for the North-Western Provinces and Oudh.

"Those proposals are embodied in the Bill the subject of the present motion, and their general principles have been approved of by Your Excellency's Government and by the Secretary of State.

"Under these circumstances it will be sufficient for me to indicate very briefly and in general terms the main reasons which have led these high authorities to believe that the measure proposed is desirable and necessary.

"The North-Western Provinces and Oudh contain a population of 44 millions, to whom high English education is imparted in five colleges situated at Allahabad, Benares, Lucknow, Agra and Aligarh. The two first are Government institutions, and the three latter are supported mainly by endownments and receive grants-in-aid from the public funds. The liberality of the Talúqdárs of Oudh, the intelligent and unwearied zeal and self-sacrifice of my hon'ble friend Saiyad Ahmad Khan Bahadur, and the public spirit of the inhabitants of Agra and the surrounding districts have founded or maintained the colleges at Lucknow, Aligarh and Agra. These are largely resorted to and turn out every year a considerable and increasing number of students who can only obtain the degree which is the crown of their college career by passing the examinations of the Calcutta University. The number of their students who matriculated has risen from 60 in 1869 to 208 in 1885, and is almost double the average number that matriculated for the Bombay University during the first ten years of its existence. The number of undergraduates studying at these institutions has nearly doubled within the last five years, and already exceeds that of many of the smaller universities of Europe. The average number of both M. A. and B. A. degrees has increased by about a third within the same short period, and is greater than the number conferred by the Calcutta University for many years after its first establishment. The value of the teaching given by the colleges is proved by the high places uniformly gained by their students in the university class lists in spite of disadvantages to which I am about to refer. It is no part of my duty, and it is certainly not in accordance with my inclinations, to detract from the credit due to the Calcutta University for the great impetus it has given to the spread of English education. It was founded 30 years ago, when English education outside Bengal was in the most backward condition, and it sufficed then and for many years to supply the needs of the whole of the Bengal Presidency. But its children are now attaining manhood, and the parental home is becoming too narrow for them. The Punjab has already, by founding a university, started on an independent career, and the Provinces to which the Bill refers are equally qualified and entitled to set up a separate establishment. It is an undoubted hardship to them that the flower of their youth should be guided in their studies and subjected to examination by a university in the management of which they have practically no voice, located in what is to them a distant and a foreign capital, and the great advancement of education in those Provinces and the munificence with which these colleges have been endowed fully justify the establishment there of an institution which shall direct the course

of education with a regard, so far as may be, properly had to local peculiarities and requirements. For it must be remembered that the influence of an Indian university is not confined to its own alumni, but affects in a great degree the teaching in every school within the sphere of its operation. Schoolmasters naturally teach their boys what will tell best in university examinations, and omit from their curriculum subjects which are useless for obtaining university distinctions.

"It is contrary to all experience to expect that a single university can suffice for the 60 millions of Bengal and the 44 millions of the United Provinces, or that a system of studies found adequate and satisfactory in the one case must necessarily be equally applicable to the other.

"Even granting this, and admitting—which is a very large admission—that absolute uniformity in the thousands of schools throughout this great area is desirable, the task of examining and testing the merits of candidates is becoming year by year more and more difficult for the examiners and less and less satisfactory to the public and the candidates themselves. It is impossible to devise any system which will secure equality of marking or uniformity in the standard of excellence where so many as 3,000 candidates have to be dealt with, and this is the number which matriculates annually at the Calcutta University.

"The establishment of a local university will satisfy a general desire of the educated community; it will ensure that the course of study in the schools throughout the North-Western Provinces and Oudh will be directed with greater regard than at present for local requirements; it will afford a stronger guarantee for the careful examination of students during their university career, especially as oral examination, quite impracticable under the existing system, can be constantly resorted to; it will meet an increasing demand for high education among the upper classes of Native society, and may fairly be expected to stimulate such education not merely in the North-Western Provinces and Oudh but in the adjoining districts of the Central Provinces and Rajputana, and to evoke in a still greater degree that liberality in the cause of education in which the inhabitants of Hindustan have not hitherto been found wanting."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also introduced he tBill.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the North-Western Provinces and Oudh Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 29th June, 1887.

S. HARVEY JAMES,

Offg. Secretary to the Govt. of India,

Legislative Department.

SIMLA;

The 10th June, 1887.

G. C. B. Press, Simla.—No. 136 L. D.—10-6-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 29th June, 1887

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
His Honour the Lieutenant-Governor of the Punjab.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Lieutenant-Colonel E. G. Wace.

GAME PROTECTION BILL.

The Hon'ble MR. PEILE moved that the Bill for the Protection of Game (of which he explained the objects and scope at the last meeting of the Council) be referred to a Select Committee consisting of the Hon'ble Lieutenant-General Chesney, the Hon'ble Messrs. Scoble and Quinton and the Mover.

The Motion was put and agreed to.

INDIAN MARINE BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved that the Report of the Select Committee on the Bill for the better administration of Her Majesty's Indian Marine Service be taken into consideration.

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the following be substituted for section 3 of the Bill:—

"3. (*1*) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

"(*a*) cause to be read and explained to him the rules of the service;

"(*b*) administer to him an oath of allegiance; and

"(*c*) cause him to sign a roll.

"(*2*) The rules, oath and roll shall be in prescribed forms"

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the following sub-section be added to section 67 of the Bill:—

"(*4*) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill as amended, be passed. He said:—

"In doing so I do not think that it is necessary to trouble the Council with any lengthened remarks, because in asking permission last year, at a meeting of the Council in Calcutta, to introduce the Bill, I explained briefly that the reason for which such a measure was proposed was that in the present state of the case the Indian Marine Service was subject to no specific law, that it was not under the Indian Naval Act or the English Mercantile Marine Act, and therefore that it was in an unrecognised and unsanctioned state.

"The reason why so much delay has occurred in providing an Act of this description is that we required, in the first instance, an enabling Act of Parliament before the Bill could be introduced into this Council, and various circumstances occurred at home to retard the passing of this enabling Act. As soon as it was passed this Bill was prepared and introduced into this Council.

"The amendments that have been proposed by the various authorities who have been consulted regarding the measure are mainly of a simple and technical

character. They have been carefully considered by the Committee, and have been, so far as has been thought desirable, incorporated in the text of the Bill. I will only add that the Military Department are under great obligations to my hon'ble friend the Legislative Member of Council, and also to the learned Secretary of the Legislative Department, upon whom the real labour of preparing this Bill has devolved."

The Motion was put and agreed to.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON moved that the Bill to establish a University at Allahabad be referred to a Select Committee consisting of the Hon'ble Sir Auckland Colvin, the Hon'ble Messrs. Scoble and Peile, the Hon'ble Lieutenant-Colonel Wace and the Mover, with instructions to report within two months. He said:—

"When moving for leave to introduce this Bill at the last meeting of Council I explained the reasons which, in the opinion of the Local Government, the Government of India and the Secretary of State, proved the necessity for establishing a university at Allahabad, and I shall now briefly touch upon the provisions of the measure.

"As is well known to Council, the Acts for the establishment of universities at the Presidency-towns were passed just 30 years ago, and in 1882 an Act was passed by this Council for the establishment of the Punjab University. In preparing the Bill before Council those Acts have been carefully considered, and their form has for obvious reasons been closely adhered to. We have, however, done our best to remedy defects or supply omissions which experience has brought to light in the earlier enactments.

"The provisions respecting the appointment of Patron, Chancellor, Vice-Chancellor and Fellows are substantially those which have received the approbation of Council in case of the Punjab University, and need not be long dwelt upon. Your Excellency will be the first Patron and Sir Alfred Lyall the first Chancellor of the University; and I hope I may venture to say that the infant institution could not begin its life under the auspices of two sponsors better fitted by their refined scholarship and literary culture to inaugurate its career and add lustre to its reputation.

"The governing body of the University will be the Senate, which is made up of the Chancellor, Vice-Chancellor and Fellows. The Fellows will be the incumbents

for the time being of certain high offices, who may be presumed from their official experience and training to take an interest in education generally, and to possess peculiar qualifications for sharing in the control and management of the university.

"The propriety of the entry in the list of the names of the Bishop of Calcutta and the Chief Justice of the North-Western Provinces is apparent. The Chief Secretary to Government will represent the views of the Local Government; the Secretary in the Public Works Department will support the claims of the proposed Engineering Faculty and the Thomason College; the Commissioner of Allahabad is the chief administrative officer of Government at the seat of the university; the Commissioner of Lucknow is *ex officio* President of the Canning College, and the Commissioner of Agra is an *ex officio* Member of the Board of Trustees and President of the Managing Committee of the Agra College; while the Director of Public Instruction, North-Western Provinces, and the Principals of the Muir and Queen's Colleges will represent the Government side of high education in the Provinces.

"Besides these *ex officio* Fellows the Chancellor may from time to time appoint others by name as being eminent benefactors of the University or persons distinguished for attainments in Literature, Science or Art, or for zeal in the cause of education. I have seen it urged that the bestowal of liberal endowments on a university does not qualify the donor to take part in its control. This seems to me to be not the whole truth. There is, I think, at least a presumption that persons who evince such a practical interest in the promotion of learning possess some qualifications for taking part in guiding the machinery which is working for that object; and in this country, where it is desirable to induce the wealthy to contribute liberally for this end, every proper encouragement should be held out to them to give of their abundance. In this view I hope the provision to which the objection I have stated has been urged will meet with the approval of Council. The list of persons named under this provision—clause (*b*) of sub-section (*1*) of section 5 of the Bill—will at a later stage be inserted in Part II of the schedule. It is clearly not desirable or convenient that the names of gentlemen selected for appointment on the grounds mentioned should be included in the Bill on its circulation for opinion. It would seem to be more in accordance with usage, and would possibly be preferred by the persons selected, that their names should be finally decided upon and entered at the time of the passing of the Act. I would however say that I have good reason to believe that the aided colleges will be adequately represented in the list, and that there is every desire that teaching bodies should have an influential voice in the management of the affairs of the university.

I would here beg leave to correct an omission due to inadvertence in my speech when introducing the Bill. In enumerating the colleges by which high English education is imparted in the United Provinces, I did not name the London Mission College, Benares, which, by the success of its pupils at the university examinations, has fully merited honourable mention.

"The persons whose names are included in the two lists I have referred to will constitute the body of Fellows at the first starting of the University; but we have adopted a provision from the Punjab University Act by which a proportion of future vacancies will be filled up from elections by the Senate. This may be expected to introduce into the Senate a more popular and varied element than could be secured by mere nomination.

"In section 11 of the Bill, which provides for the appointment of a Syndicate, Faculties, examiners and officers, it will be seen that power is given to the Senate to constitute Faculties not merely of Arts, Law and Science, but also of Engineering. We have already in the North-Western Provinces an Engineering College long established, which sends out its pupils all over India, and is celebrated alike for the success of its alumni, and for the attainments and reputation of the distingushed officers of the Bengal and Royal Engineers who have held, and hold, the office of Principal. It requires few words to show that the pupils of such a college should not be compelled to undergo examination at the hands of a body, however learned, one thousand miles off, and may fairly claim to have their knowledge tested by a competent body less alien in habits, language and character.

"We have also in the Provinces at Agra a Medical School which, though at present far behind the colleges at the Presidency, may, we hope, in time develop into an institution capable of imparting a high medical education; and with this expectation power has been given to the Senate to constitute a Faculty of Medicine with the previous approval of the Governor General in Council. Such approval will, of course, be withheld until the Government of India is fully satisfied of the adequacy of the medical education given by the Provincial institution.

"In clause (5), by empowering the Senate to appoint or provide for the appointment of professors and lecturers, we take a step in advance of the law for the Presidency universities in the direction of facilitating the future expansion of the institution established by the Bill into a teaching university. The three older universities are examining bodies and nothing more, and the Punjab Uni-

versity is a teaching as well as an examining body. As in all educational questions, much is to be said, and has been said, for each of those systems. The advocates of one side point to the older universities in the British Isles and continental Europe: those of the other to that vigorous and flourishing institution, the London University, over which the controversy is now being hotly waged. I need not enumerate the arguments *pro* and *con*, with which hon'ble members are doubtless familiar. An infant institution like ours may be well content to await the issue of the dispute and to profit by the experience of its elders. The power taken is only permissive; and in the present condition of the Provinces it cannot be brought into operation for some time to come. The Muir College at Allahabad, flourishing as it is, cannot yet pretend to have reached the educational status of the Presidency College; and it is in the Muir College that, from the circumstances of the case, the germs of a teaching university for the Upper Provinces must be looked for.

"We have incorporated in the Bill provisions enabling the Senate to confer the honorary degree of Doctor of Laws in accordance with Act I of 1884, which gives that power to the older universities; and in section 16 we have given power to the Senate to make rules for the transaction of business and the management of the university with the sanction of the Local Government. To rules respecting the previous course of instruction to be followed by candidates for the university examinations, and respecting the examinations to be passed, and the other conditions to be fulfilled by candidates for degrees, the further sanction of the Governor General is necessary.

"The provisions of the Bill, and the criticisims on them evoked by its publication, will be fully discussed by the Select Committee, in which it will be observed we shall have the advantage of the advice of a future Chancellor of the university, and of Fellows of the universities of Bombay and the Punjab."

The Motion was put and agreed to.

BURMA MILITARY POLICE BILL.

The Hon'ble MR. PEILE moved for leave to introduce a Bill for the Regulation of Military Police in Burma. He said:—

"With Your Lordship's permission I will briefly explain to the Council the reasons for this motion.

"Soon after we assumed the government of Upper Burma, the necessity became apparent for enrolling a well-disciplined and armed force of military

police, to be recruited in Northern India, for the repression of disturbance and dacoity. From time to time, during 1886, the dimensions of this Indian force were enlarged; and in the autumn the Chief Commissioner proposed a Regulation under the Statute 33 Vic., chapter 3, section 1, for the better discipline of the military police of Upper Burma. His draft followed closely the Assam Frontier Police Regulation of 1882. It was approved by the Governor General in Council, received Your Excellency's assent in January, 1887, and came into force in the same month. It applies to all persons appointed to the Burma police under the general Police Act, V of 1861, section 7, who may have signed a statement as to conditions of service, which forms a schedule to the Regulation. Its effect is to enforce discipline by imposing severe punishments for mutiny, cowardice, desertion and various breaches of duty on active service; to make obligatory a minimum term of service of three years; and to bar all right to be discharged when on active service or when the force is more than one-tenth below its sanctioned strength.

"In May last the Chief Commissioner requested that a Police Act similar to this Regulation should be passed for Lower Burma. He said that Act V of 1861 was inadequate to maintain the discipline of a semi-military force such as the Lower Burma Indian police was tending to become; that the Indian police who had been enlisted before 1886 were not, as a rule, of the martial races of India; that he proposed to eliminate the unfit and to bring the rest under the discipline of a Military Police Act. He added that a similar law was required for the force of Indian police which the Government of India had raised for Lower Burma in 1886, which consisted of the same stamp of men who had been enlisted for the military police of Upper Burma, and which was armed with the same weapons.

"In the necessity for such a measure we entirely concurred. For three years previous the Government of India had been constrained to record unfavourable opinions on the efficiency of the Lower Burma police in coping with the outburst of violent crime which then prevailed.

"There was, however, an obvious inconvenience in having separate and distinct enactments for the Upper and the Lower Provinces; inasmuch as men enrolled under the Regulation for service in Upper Burma could not be employed in Lower Burma; nor could men enrolled under an Act in force in Lower Burma be employed in the new territory. Upper and Lower Burma now form one Province; the crime with which the military police have to deal is of the same type in both; and it was clear to us that the preferable course was to have one Military Police Act for the whole Province of Burma.

"It was decided, therefore, that the requirement of the Chief Commissioner should be met by bringing before the Council, with as little delay as possible, a Bill for regulating the military police of Burma as a whole. That is the measure which I now ask leave to introduce. It purports to repeal the Military Police Regulation, which has been law in Upper Burma since January; and it is substantially identical with that Regulation, extending the same provisions to the same class of military police-officers in the Lower as in the Upper Province."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also introduced the Bill.

The Hon'ble MR. PEILE also moved that the Bill be taken into consideration by the Council on the 13th July, 1887.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 13th July, 1887.

SIMLA;
The 1st July, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

Govt. C. B. Press, Simla.—No. 185 L D.—1-7-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 13th July, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. W. Quinton, C.S.I.

BURMA MILITARY POLICE BILL.

The Hon'ble MR. PEILE moved that the consideration of the Bill for the Regulation of Military Police in Burma be postponed. He explained that, as the Bill was not exactly the form of enactment suggested by the Chief Commissioner, it was thought advisable to obtain his remarks upon it. These remarks had not been received in sufficient time to enable the Bill to be considered at the present meeting of the Council.

The Motion was put and agreed to.

INLAND BONDED WAREHOUSES BILL.

The Hon'ble SIR AUCKLAND COLVIN moved for leave to introduce a Bill to provide for the establishment of bonded warehouses at places other than customs-ports. He said:—

"Under sections 15 and 16 of the Sea Customs Act, 1878, public or private warehouses, wherein dutiable goods may be deposited without payment of duty, can only be appointed or licensed by the Chief Customs-authority at a warehousing port; and under section 14 of the same Act places declared under section 11 of the Act to be customs-ports can alone be declared to be warehousing

ports. It has recently, however, been brought to the notice of the Government of India, in connection with certain proposals for the establishment of bonded salt golahs at Teknaaf in the Cox's Bázár subdivision of the Chittagong district and at Khulna, the terminus of the Bengal Central Railway, that it is desirable to have power (as was possessed under section 14 of the former Sea Customs Act, VI of 1863) to appoint or license warehouses under the Sea Customs Act at places which cannot properly be declared under section 11 of that Act to be customs-ports. The object of this Bill is to confer that power on the Chief Customs-authority acting with the previous sanction of the Local Government."

The Motion was put and agreed to.

The Hon'ble SIR AUCKLAND COLVIN also introduced the Bill.

The Hon'ble SIR AUCKLAND COLVIN also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 27th July, 1887.

SIMLA;
The 14th July, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

Govt. C. B. Press, Simla.—No. 240 L. D.—15-7-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 27th July, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*

His Honour the Lieutenant-Governor of the Punjab.

His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble J. B. Peile, M.A., C.S.I.

The Hon'ble J. W. Quinton, C.S.I.

The Hon'ble Colonel E. G. Wace.

The Hon'ble Nawáb Nawazish Ali Khan, C.I.E.

NEW MEMBER.

The Hon'ble NAWÁB NAWAZISH ALI KHAN took his seat as an Additional Member.

BURMA MILITARY POLICE BILL.

The Hon'ble MR. PEILE moved that the Bill for the Regulation of Military Police in Burma be taken into consideration. He said:—

"I explained to the Council when introducing the Burma Military Police Bill that it will simply replace in Upper Burma the Regulation for the better discipline of the military police which was passed in January. The real object of this Bill is to extend the provisions of that Regulation to the military police

in Lower Burma, and the most convenient way to do that is to pass an Act which repeals the Regulation and puts the military police under the same law in both divisions of Burma. In short, the Bill applies the same remedy to the same disease in the Lower and in the Upper Province. By the disease in Lower Burma I mean that outbreak of violent crime which, commencing in December, 1885, with the Shan rebellion in Shwegyin, spread along the frontier of Upper Burma and over the delta of the Irrawaddy, and in 1886 increased the record of dacoities in Lower Burma from 105 to over 2,000. The more serious risings were suppressed by the aid of troops before the rains of 1886, but there then ensued in the districts of the Irrawaddy and Pegu numerous outrages by scattered bands of dacoits. People's minds were excited by the conquest of Upper Burma and by rumours of successful resistance. The disaffected made patriotism a cloak for outrage and plunder, and the well-disposed were apathetic and indifferent. Early in the year it was apparent that the police of Lower Burma was incompetent to cope with the crime of a country thus disordered, and, simultaneously with the creation of a powerful force of Indian police for Upper Burma, men of the same class, that is to say, the fighting races of Northern India, were recruited for Lower Burma also. By the aid of this reinforcement posts were strengthened and reserves established. The Indian police in Lower Burma number according to the latest returns 5,274 men, and with the Burma police make up a total strength of over 10,000.

"The conduct of the new Indian police is reported by the Chief Commissioner to have been creditable, but it is clear that in dealing with so large and powerful a body of men a strict military discipline is imperative on the one hand to control them in their intercourse with the people of Burma, and on the other to fit them to take over from our troops of the line the duty of suppressing with a strong hand dacoity and other violent crime. We believe that whatever may be the peculiar views of the Burman as to the moral qualities of dacoity, disorder may be quelled in Burma, as it was in the Punjab, by an efficient police.

"In the first sections of the Bill the classes and grades of military police-officers are defined, together with the conditions of the service and of discharge from it. Then follows the enumeration of the offences against the discipline of the corps and against the public with which we propose to deal specially, and of their appropriate punishment.

"Since I introduced this Bill some amendments have been suggested which are, in fact, additions or alterations to make the meaning clearer and

do not affect the principles of the Bill, which have been accepted in the Assam Frontier Police Regulation of 1882 and in the Upper Burma Regulation passed this year."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also moved the following amendments:—

(1) That in section 3, sub-section (*l*), for the words and figures "Act V of 1861, section 7," the words and figures "section 7 of Act V of 1861" be substituted.

Mr. PEILE explained that this amendment was merely verbal.

(2) That section 11 be made section 4 and the numbering of the former section 4 and the following sections be altered accordingly.

This amendment, Mr. PEILE said, was simply a matter of arrangement.

(3) That the words "appointed to" be substituted for the word "of" in the first line of section 4 (formerly section 11), sub-section (*l*), and the words and figures "under section 7 of Act V of 1861' be inserted in that sub-section after the word "police-force"; and' that, in sub-section (*2*) of the same section, for the words and figures "Act V of 1861, section 9," the words and figures "section 9 of Act V of 1861" be substituted.

This amendment, MR. PEILE explained, was also a verbal amendment.

(4) That the word "and" be transposed from clause (*e*) of sub-section (*2*) of section 5 (formerly section 4) to clause (*f*) of that sub-section after the word "grade", and the following clause be added after clause (*f*) of that sub-section, namely:—

"(*g*) in relation to any military police-officer, any Second-in-command, Commandant or Deputy Commissioner".

That is to say, those officers were to come within the definition of superior officers. This amendment was added with reference to sections 6 (*b*) and 7 (*e*).

(5) That the words "in any circumstances in which the superior officer is distinguishable as such in any manner" in clause (*b*) of section 6 (formerly section 5) be omitted.

MR. PEILE explained that it was proposed that the words referred to should be omitted as likely to raise difficult questions.

(6) That the words "field, garden or other" in clause (*j*) of section 6 (formerly section 5) be omitted.

It was proposed to omit these words as unnecessary.

(7) That the words "on proof of the truth of the complaint" be inserted in the sixth line of clause (*h*) of section 7 (formerly section 6) after the word "fails", and that the word "and" be substituted for the word "or" in the seventh line of that clause.

The first of these amendments was made to complete the sense, and the second to require a report in every case.

(8) That the words "field, garden or other" in clause (*m*) of section 7 (formerly section 6) be omitted.

These words were also omitted as unnecessary.

(9) That the words "in or near the lines" in clause (*a*) of sub-section (*r*) of section 9 (formerly section 8) be omitted, and that the word "quarters" be substituted for the word "lines" in clause (*b*) of the same sub-section.

This, MR. PEILE explained, was far more convenient wording.

(10) That the following new sections be inserted after section 11 of the Bill, namely :—

"12. (*a*) Subject to such rules as the Local Government may make in this behalf, a Commandant or Second-in-command of Military Police shall have, with respect to police-officers appointed to the Burma police-force under section 7 of Act V of 1861 who are not military police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

Disciplinary and other powers of Commandants and Seconds-in-command of Military Police otherwise than in respect of military police.

"(*b*) The Local Government may confer on a Commandant or Second-in-command of Military Police, by name or by virtue of his office, any other power of a District Superintendent of Police under Act V of 1861 or any other enactment for the time being in force, or under any rule under any such enactment, and may define the circumstances in which any power so conferred may be exercised by such Commandant or Second-in-command.

"13. A Commandant or Second-in-command of Military Police shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of Act V of 1861, section 125 of the Indian Evidence Act, 1872, and any other enactment for the time being in force.

Privileges of Commandants and Seconds-in-command of Military Police as police-officers.

"14. The Local Government may, as regards the Military Police, make such orders and rules consistent with this Act as it thinks expedient relative to the several matters respecting which the Inspector General of Police, with the approval of the Local Government, may, as regards the rest of the Burmà police-force, frame orders and rules under section 12 of Act V of 1861."

Power to make rules.

Mr. PEILE explained that sections 12 and 13 of the above amendments were suggested by the Chief Commissioner. The object of section 12 was to give to the officers named powers over the civil police similar to those of a District Superintendent under Act V of 1861 as far as might be necessary. Section 13 extended to those officers the privileges of police-officers as to actions and prosecutions, and protection as to giving evidence whence information was obtained. Section 14 was to enable the Local Government to make rules and orders regarding the organization, classification, residence, inspection, arms, &c., of the force.

His Excellency THE PRESIDENT said:—

"Before putting these amendments I should be glad to take the opportunity, which as yet I have not had, of expressing on behalf of my colleagues in the Government of India the great satisfaction with which we have observed the manner in which the Indian military police of Burma have discharged their difficult and arduous duties from the date they were despatched to that country. Although from time to time the Government of India, through the Home Department, has conveyed to the officers, European and Native, of that corps various indications of their approval, I do not think that any very formal recognition of their services has as yet been made. There is no doubt that the duties which have fallen to their share have been as arduous, as dangerous, and as trying to their health as those to which the military forces of Her Majesty in Burma have been exposed, and both in regard to the physical courage and patience which they have displayed, and to their discipline and obedience to command, they have in no degree fallen behind the other police-forces of India. Indeed, on several occasions, the military police of Burma

have distinguished themselves in a very remarkable manner, and, on more than one occasion, individual Native officers have shown extraordinary bravery and enterprise.

"I entirely agree with the observations which have fallen from my hon'ble colleague Mr. Peile that it is of the most essential importance that this force should be worked up to a very high level of military discipline. We must remember that it discharges its duties under very peculiar conditions. It is a force sent to Burma for the purpose of maintaining the domestic peace of the country, but at the same time it is composed of men who are alien in race, in religion, and in language to the population amongst whom they exercise their duties. Consequently, unless there is introduced into the force the bonds of a very strict military discipline, there might be a danger lest it should transgress the proper limits of police action. Thanks to the judicious and practical recommendations of the Commander-in-Chief when he was in Burma and had an opportunity of observing both the defects as well as the good qualities of the force as it was then constituted, the Government of India, acting by his advice, was able to introduce into Upper Burma those improvements and those special arrangements which, in consequence of their successful operation, my hon'ble colleague is now anxious to extend to the force in Lower Burma. It is satisfactory to think that the alterations about to be applied to the organization and composition of the force in Lower Burma have successfully operated in the Upper Burma police-force.

"I do not think it will be necessary for me to re-read the various amendments proposed by my hon'ble colleague, and therefore I shall proceed to put them *en bloc*."

The Motion was put and agreed to.

The Hon'ble MR. PEILE moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INLAND BONDED WAREHOUSES BILL.

The Hon'ble SIR AUCKLAND COLVIN moved that the Bill to provide for the establishment of bonded warehouses at places other than customs-ports be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Mr. Peile and the Mover, with instructions to report within two months.

The Motion was put and agreed to.

1887.] [*Colonel Wace.*]

PUNJAB TENANCY BILL.

The Hon'ble COLONEL WACE presented the Report of the Select Committee on the Bill to amend the Law relating to the Tenancy of Land in the Punjab He said:—

"An interval of more than a year has elapsed since the Select Committee whose report I now present was appointed to consider this Bill. The opinions received by them, and the discussions which have followed on the receipt of those opinions, have resulted in numerous alterations of the Bill as introduced—alterations which are summarised in the report now presented by them. But it will be convenient if I take the present opportunity to furnish a more detailed explanation of our recommendations.

"Passing over for the moment section 3 of the Bill, I first invite attention to the alteration which we have made in clause (*a*) of sub-section (*1*) of section 5. This clause defines the conditions necessary to support the claim of a tenant to the most privileged right of occupancy. Under the corresponding clause in the Act of 1868, according to the interpretation of that clause finally established by a judgment of the Chief Court, the conditions on which the claim is based must have matured before the passing of the Act of 1868. The intention of the Bill as introduced was to remove this limitation, and to allow a tenant to show at any time that he had fulfilled these conditions. Opinions have been a good deal divided on the merits of this proposed change. On an examination of the best of those opinions we found that the supporters of the change urged that it was necessary in order to bring the clause into harmony with the intention of the Act as at first generally understood; and that in particular in the districts generally known as the old Delhi territory, where at the date of the passing of the Act of 1868 the settlement-records were less complete than in the central districts of the Punjab, there are a number of old tenants who undoubtedly belong to the class that the legislature intended in the year 1868 to protect by this clause, but who under the interpretation of the clause now established were likely to fail in establishing their claim owing to the difficulty of producing adequate evidence. A tenant advancing a claim of this nature would under that interpretation have to prove occupancy extending over three generations prior to the year 1868, and running back into times when there were no settlement-records and no custom of written leases. In fact, the whole burden of proof was thrown on the tenant under circumstances which made it almost impossible for him to prove his case.

"On the other hand, against the proposed change the chief arguments appeared to us to be these; that the alteration would have a continuing and

unrestricted operation in the future, tending by so much to injure the confidence which we desire to promote between landlords and tenants in their relations with each other; and that, though justified by the circumstances of the old Delhi territory, it is not required by those of the rest of the province, where tenants of this class are now few in number. On the facts as thus placed before us we have concluded that we shall sufficiently provide for all old claims, if the period within which this privileged tenure must mature is extended to the date of the passing of this Act; and we have therefore added to the clause words intended to have this effect.

"I pass on to the chapter which deals with rent. The opening sections of the chapter secure to the landlord a first charge on the produce to the extent of his rent, and to the tenant the exclusive possession of the produce on the condition that this charge is satisfied. We have then brought together all the sections relating to produce-rents, and in respect of these we have made no material change in the provisions of the Bill as introduced. The next portion of the chapter relates to cash-rents, and involved greater difficulties. The two provisions relating to this subject in the Bill as introduced which evoked most criticism were the scale of enchancement provided for the rent of tenants with rights of occupancy, and the proposal to give power to a Revenue-officer to revise rents of his own motion whenever the land-revenue might be re-assessed On both points it has been our desire to proceed with caution in introducing changes in the law which, though reversions to the procedure followed in the early years of Punjab administration, will affect materially the interests of a large number of landlords and tenants.

"As regards the scale of enhancement, we think that the opinions submitted to us establish the necessity for modifying the scale of enhancement prescribed by the existing Act. We have no doubt that in the circumstances of those occupancy-tenants in the Punjab who pay cash-rents the attempt to adjudicate on those rents by reference to competition-rents, especially when controlled by the obscure limitations stated in section 11 of that Act, must be an unsatisfactory task and must involve protracted litigation of a costly, uncertain and injurious character. The method by which the Local Government has proposed to meet this difficulty is probably the only one by which litigation of this nature can be avoided, and it has also these merits, that it was the method successfully resorted to at the first settlement, and is therefore familiar to the agriculturists who are concerned. But, with the concurrence of the Local Government and principal Revenue-officers, the Bill as now amended secures to the landlord a higher rate of profit than was provided in the Bill as introduced. It has been

urged that the merits of this scale depend on the real relation of the Government's demand to the fair rent of the land. To enter into this argument would raise a much vexed question, on which very opposite opinions have been held and will perhaps continue to be held. But I believe I shall correctly express the conclusions of all officers who have been actually engaged in the re-settlement of the land-revenue if I say that it is very difficult, consistently with fair dealing and with the prosperity of the tenant concerned, to impose on a tenant a rent which exceeds by a large proportion that which he has previously paid. It is on this ground, and on the necessity of preventing injurious litigation, rather than on the abstract merits of any formula or scale, that the provisions of the Bill are to be defended. We believe that these provisions will be of easy application, that they will give to the landlord on due cause shown a substantially increased rent, and that at the same time they will protect the tenant from so severe a measure of enhancement as would be likely to injure him.

"On the other question, namely, the extent to which a Revenue-officer should be allowed to revise rents on his own motion, our proposals go as far as, but no further than, is warranted by previous practice in the Punjab. If a tenant is by the conditions of his tenancy liable to pay the land-revenue due on his land, or any other charges such as rates, cesses or malikana which vary with the land-revenue and bear a distinct proportion to that revenue, then the officer who has authority to alter the land-revenue payable by the landlord will also alter the amount contributed by the tenant, and the amount, but not the rate, of any surcharges that are directly connected with the land-revenue. This operation may increase the payment for which the tenant is liable; but the increase will be made pursuant to the existing conditions of the tenancy. Interference to this extent without any formal application by the landlord is in accordance with past practice, and a tenant who holds his land under the express condition that his rent shall vary with the land-revenue cannot justly complain of a rule of law which gives effect to that condition. But proceedings which have for their object the substantial alteration of the rent of a tenant, as for instance the reduction of a tenant's rent or the increase of that rent in a manner not expressly contemplated by the conditions on which he holds, should not, we think, be originated otherwise on the suit of the party interested; and in modifying the provisions of the Bill on this subject we have given expression to these conclusions.

"The next subject is relinquishment and ejectment. If I were to describe the points in respect of which this chapter differs from the Bill as introduced, I should

be led into details with which it is scarcely necessary to take up the time of the Council in the present stage of the Bill. Briefly, we have stated distinctly the circumstances under which a tenant is liable to ejectment; and we have defined those special circumstances in which a landlord may proceed by notice instead of by suit. The rest of the provisions of this chapter are much the same as are now to be found in the other Rent Acts enacted by this Council.

"As regards alienation and succession, the provisions of the Bill as now amended adhere more closely to those of the existing Act than did those of the Bill as introduced. In reverting to the provisions of the existing Act the Select Committee has followed the course advocated in the majority of the opinions received and finally approved by the Local Government in February last. The Bill in its present form does not give the power of alienation to any other tenants than those who already possess this power. The recognition of the widow's life-interest is the only substantial addition to the previous law; and the propriety of this addition is not questioned by any one. And, in so far as we have defined more clearly the manner in which a tenant who desires to alienate his tenancy should give notice to his landlord, and the manner in which on receipt of notice the landlord's right of pre-emption will be enforced, the provisions of the Bill will, I hope, secure both parties against the uncertainties which in the past have commonly attended litigation relating to this subject.

"In the chapter on improvements and compensation two important changes have been introduced. The right of a landlord to make an improvement on the land held by a tenant with right of occupancy has been distinctly provided for, and also the landlord's right to an increased rent in return for such an improvement. In connection with this provision I desire to point out that, if such improvements are classed from the point of view of the tenant, they may be divided into works which will increase the produce of his land without imposing on him the necessity of altering in any material degree his previous standard of husbandry and expenditure, and works which will not yield any favourable result unless they are supplemented by a very considerable increased expenditure on the part of the tenant. Of the first of these two classes a canal distributary which supplies flow irrigation is the most obvious example; and though by existing usage a landlord may not be entitled to make an improvement of this kind on the holding of a tenant with a right of occupancy, it is not likely that such a tenant, if he himself lacked the means or opportunity to make the improvement, would except for some plain and special reason object to its execution by the landlord. Of the second class a well may be taken as an instance. Personally I have felt great hesitation as to the introduction into this Bill of

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words which will enable a landlord to impose on a tenant the very heavy expenditure necessary to successful well-irrigation in the Punjab. And I have reason for saying that this hesitation will be shared by those of our Revenue-officers who have given much attention to the conditions of this form of irrigation. My objections have been met by the clause which provides for the control of this power by rules adapted to local requirements and to the merits of each class of improvements. And I trust that, by the aid of these rules and by the exercise of due discretion on the part of our Revenue-officers in dealing with such applications as landlords may make to them, we may avoid imposing on a tenant in any case an improvement which, though it may fall technically within the definition laid down in the Bill, would require of him a husbandry and expenditure beyond a fair estimate of his capacity to undertake.

"The other important change in this chapter relates to compensation on disturbance. The provisions of the Bill on this point have been so altered as not to apply in any case to a tenant with a right of occupancy, and further so as to require a Revenue-officer or Court estimating the compensation to take into account the special consideration already received by a tenant at the hands of his landlord in return for his labour in reclaiming land, as well as all other matters which are weighed when adjudging compensation for improvements.

"It remains only to explain the effect of section 3 of the Bill on the ordinary operation of its provisions; that is to say, the extent to which under the Bill as now framed those provisions may be set aside by contract. In the Bill as introduced this difficult subject was left in some ambiguity. But the general intention of the framers of the Bill was that contracts and usages, except on the subject of sub-leases rights of alienation and rights of succession, should not prevail against the provisions of the law. This course was in opposition to the provisions of section 2 of the existing Act. That section saves all written agreements between landlords and tenants, and further gives the force of agreements to all entries in settlement-records made and sanctioned prior to the year 1871 other than entries relating to rights of occupancy. The opinions received by the Select Committee on this subject were of a conflicting character, and in drafting section 3 of the Bill in the form in which it now stands we have not thought it expedient to accept the entire change at first proposed.

"We have provided that if a tenant is entitled under the Bill to make an improvement, or if he has made an improvement with the permission of his landlord, any contract or entry in a record-of-rights which would operate to subject him to a penalty or to ejectment in consequence thereof, or deprive

him of his claim to compensation in the event of ejectment or enhancement of rent, shall be void to that extent. We have also provided that in respect of the ejectment of a tenant, and of his claim to reduction, remission or suspension of rent, the provisions of the Act shall override any contract made after the date of its passing. We have further extended a similar protection to rights of occupancy arising under the express provisions of the Bill and to the favourable rate of rent provided for such tenancies by the Bill, though probably this particular provision will only actually operate in a very few cases. To the above extent we have accepted the proposals embodied in the Bill as first referred to us, as they appeared to us to be in accordance with the policy approved by the Government of India and necessary to the due protection of tenants. But in respect of other matters we do not think it necessary to provide that the provisions of the law shall override contracts; and we have also continued the validity given by the existing law to agreements entered in settlement-records of older date than 1871. We have been assured that these agreements have now in all but a few cases ceased to operate. This may be the case; and it may also be the case that by omitting any reference to them in the new law we should cut off some litigation of a difficult and uncertain character. But, having regard to the express recognition that these entries received in the law of 1868 and 1871, it appears to be the safer course to leave it to the Courts to decide in any case which may come before them, whether the operation of any particular entry has or has not expired.

"Lastly, a very complete chapter on jurisdiction and procedure has been added to the Bill. In adding this chapter it has been in no way our intention to establish unnecessary distinctions between the procedure followed by a Revenue-officer in dealing with business arising under the Land-revenue Act and that which he will follow in dealing with applications under the Tenancy Act which are not of the nature of suits. On the contrary, we have been careful to maintain identical provisions in the two Bills in respect of administration, appeal, review and revision, appearances, summonses and procedure generally. But it appeared to us to be most convenient, equally in the interests of Revenue-officers and in those of the applicants and litigants who will appear before them, that the Act should be complete in itself.

"In dealing with suits under the Tenancy Act a Revenue-officer will, as hitherto, follow for the most part the procedure laid down in the Civil Procedure Code.

"As regards the jurisdiction of Revenue-officers and Revenue Courts, that is to say, the matters with which they are respectively empowered to deal, though the Bill makes no substantial change in the existing state of the law on these points, the clauses defining those matters have been re-drafted, so as to avoid the ambiguities which at present surround the subject; and, with the concurrence of the Chief Court, adequate provisions have been introduced for dealing with cases where the jurisdiction is doubtful or is challenged.

"I trust, my Lord, that the Bill in the form in which it now stands will have a beneficial effect on the relations of landlords and tenants in this important province, and that it will confirm to both of these classes the expectations which have arisen out of the Act of 1868."

PUNJAB LAND-REVENUE BILL.

The Hon'ble COLONEL WACE also presented the Report of the Select Committee on the Bill to amend and declare the Land-revenue Law of the Punjab. He said:—

"This Bill, like the Punjab Tenancy Bill, was referred to the Select Committee for report more than a year ago. It has, like that Bill, been subjected to the most careful examination, equally by the Chief Court and the Revenue-officers of the Province and by the members of this Council who were appointed to the Select Committee. The result has been to introduce a great many alterations of construction and detail; and though I might justly describe some of these alterations as important, they are so much confined to formal procedure that I hesitate to enter into the same full explanation of them as was required of me in respect of the changes introduced into the Tenancy Bill.

"I need not say that we have been greatly assisted in our labours by the very complete Land-revenue Acts enacted by this Council for the North-Western Provinces, for Oudh and for the Central Provinces in the years 1873, 1876 and 1881. But while we have been careful to avail ourselves of all appropriate aids of this nature, we have been equally anxious to express correctly in this Bill the land-revenue procedure actually now current in the Punjab, and to avoid introducing changes which are not justified by experience or are not appropriate to the tenures and circumstances of the Province. In so far as the Bill as now reported exceeds in bulk the existing Land-revenue Act, it does so partly in consequence of the incorporation into it of the rules issued under the existing

Act on the subject of partition and arbitration. The Bill also contains much more precise and detailed provisions in respect of the powers and procedure of Revenue-officers, than it was practicable to formulate when the existing Act was enacted in 1871.

"The only really important departure from past practice and the most material modification of the Bill as introduced will be found in Chapter IV of the Bill as now amended. That chapter deals with records-of-rights in the land. Under the system provided in the existing Act a complete record-of-rights in each estate is prepared at intervals of 20 or 30 years. In the intervening years the Collector makes a record of all facts which occur subsequently to the preparation of that record, in order to supply materials with the aid of which after the expiry of the usual interval of 20 or 30 years a revised record-of-rights may be prepared. The system contemplated in the Bill as now amended is essentially different. We do not contemplate in it any re-writing of the record-of-rights after long intervals of comparative neglect. We assume that the Collector of each district has at his command an agency adequate for the correct preparation of annual records, and that this agency will under the Collector's supervision discharge this duty efficiently. This is a system which the Government of India has had in view for some years past; and, having regard to the increasing efficiency of the village-officers and of the Government's revenue-establishments, and to the very considerable expenditure annually incurred in their support, there would appear to be no sufficient reason for refraining any longer from insisting on a higher standard of accuracy in the annual records than has hitherto been expected

"We have omitted from the Bill any provision for the recovery in a given district of arrears of revenue which have accrued in other districts or in another Province. The law does not at present provide any satisfactory procedure on this subject. But I wish to explain that its omission from this Bill is due not to oversight, but to the circumstance that a draft enactment on the subject which will apply to the whole of India is now under the consideration of the Government.

"Similarly, the omission from the Bill as now amended of the chapter which aimed at providing for the conservancy of village-wastes and forests is not due to any intention to overlook this important subject, but to the circumstance that the questions involved are of such importance as to necessitate their separate consideration.

"I am confident, my Lord, that this Bill as now submitted to this Council for final consideration will, when passed into law, promote in an equal degree the better administration of the land-revenue and the interests of the agriculturists by whom that land-revenue is paid; and I only wish to add further on behalf of the Hon'ble the Lieutenant-Governor and also on my own behalf that we feel personally very greatly indebted to the assistance given to us in dealing both with the Tenancy Bill and the Land-revenue Bill by the hon'ble members of this Council who have been associated for many years with the Administration of the North-Western Provinces and by its Secretary, Mr. Harvey James."

His Excellency THE PRESIDENT said :—"I am quite certain that the other members of the Council who have not served on the Select Committees will be quite willing to endorse the concluding observations of Colonel Wace, and to express their very great sense of obligation for the industry and energy with which he and his colleagues, assisted by His Honour the Lieutenant-Governor and Mr Harvey James, have elaborated these most important and complicated Bills."

The Council adjourned to Wednesday, the 10th August, 1887.

SIMLA;
The 29th July, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt of India,
Legislative Department.

Govt. C. Press, Simla.—No. 291 L. D.—29-7-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 10th August, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I E., P.C., *presiding.*

His Excellency the Commander-in-Chief, Bart., R.A., V C., G.C.B., G.C.I.E.

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B , C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble J. B. Peile, M.A., C.S.I.

The Hon'ble J. Westland.

The Hon'ble J. W. Quinton, C S.I.

The Hon'ble Nawáb Nawazish Ali Khan, C I E.

INDIAN PORTS ACT, 1875, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Westland be substituted for the Hon'ble Sir Auckland Colvin as a member of the Select Committee on the Bill to amend the Indian Ports Act, 1875.

The Motion was put and agreed to.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Westland be substituted for .the Hon'ble Sir Auckland Colvin as a member of the Select Committee on the Bill to amend the Indian Stamp Act, 1879.

The Motion was put and agreed to.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON moved that the Hon'ble Mr. Westland be substituted for the Hon'ble Sir Auckland Colvin as a member of the Select Committee on the Bill to establish a University at Allahabad.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 24th August, 1887.

SIMLA;
The 11th August, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

Govt. C. Press, Simla.—No. 340 L. D.—11-8-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 24th August, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
His Honour the Lieutenant-Governor of the Punjab.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Colonel E. G. Wace,
The Hon'ble Nawáb Nawazish Ali Khan, C.I.E.

INLAND BONDED WAREHOUSES BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Westland be substituted for the Hon'ble Sir Auckland Colvin as a member of the Select Committee on the Bill to provide for the establishment of bonded warehouses at places other than customs-ports.

The Motion was put and agreed to.

REVENUE RECOVERY BILL.

The Hon'ble MR. QUINTON moved for leave to introduce a Bill to make better provision for recovering certain public demands. He said:—

"The object of this Bill is to enable the Collector of any district in British India to recover from a person who at the time is or has property in that district arrears of revenue for which that person has become liable as principal or surety in another district, on being duly certified that the arrear has accrued there.

"Hon'ble members are aware that the powers of Collectors for realizing land-revenue are strictly defined by law, and that arrears of numerous other

sources of revenue are made by law recoverable as arrears of land-revenue. The law for the realization of land-revenue in British India is embodied for the larger provinces in Acts passed by the local legislatures, and for the smaller in local Acts passed by this Council or Regulations made by the Executive Council.

"The operation of these Acts and Regulations is limited to the provinces to which they extend, and there is at present no legal authority enabling a Collector of one province to recover arrears of revenue which have accrued in another. In some cases it is even open to doubt whether the same disability does not apply to Collectors of districts in the same province.

"The difficulties arising from this state of the law have been more or less felt for many years. For obvious reasons they are experienced in a less degree in the maritime presidencies than in inland provinces surrounded by British territory. It would rarely pay a defaulter anxious to avoid his liabilities to incur the trouble and expense of a sea voyage from Ratnagari to Aden or from Masulipatam to Rangoon, but it is an easy matter for him to cross over from the North-Western Provinces into Oudh or from Orissa into Ganjam.

"Collectors of border districts have hitherto by a sort of inter-provincial comity rendered mutual assistance to each other in dealings with such defaulters, but in an affair of such importance as the realization of the public revenue a more certain and more legal basis for the action of our executive officers is called for, especially as, in consequence of the improvement of communications and the rapid extension of railways, facilities for the evasion of the Collector's powers are daily increasing.

"This Bill has therefore been drawn so as to regulate and legalize that action, and, should the Council sanction its introduction, I shall explain its provisions at a later stage.

"A minor object aimed at by the Bill is to enable certain public officers and local authorities, who have been vested by law with the power of recovering arrears of rates and taxes or other public moneys as if they were arrears of land-revenue, to call on the Collector of the district to perform this duty. It is a duty which in many cases such officers or bodies are not well fitted to discharge; for instance, the head of any office in which a public accountant has shown loss or defalcation in his accounts, or the Port Commissioners of Rangoon, are not necessarily acquainted with the law for the recovery of arrears of land-revenue or the circumstances and qualifications under which it should be

applied, and yet Acts passed by the legislature require them to enforce it. The principle of calling in the aid of the Collector in such cases has been already adopted by this Council in the Punjab Municipalities Act passed three years ago."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also introduced the Bill.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 7th September, 1887.

SIMLA;
The 26th August, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

Govt. C. Press, Simla.—No. 385 L. D.—26-8-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 31st August, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K P., G.C.B., G.C.M.G., G M.S I., G.M I E , P C., *presiding.*
His Excellency the Commander-in-Chief, Bart., R A., V C., G.C.B., G.C.I.E.
The Hon'ble Sir T C. Hope, K C S I., C I.E
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q C.
The Hon'ble J. B. Peile, M A., C.S.I.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C S.I.
The Hon'ble Colonel E. G. Wace.
The Hon'ble Nawáb Nawazish Ali Khan, C.I E.

REVENUE RECOVERY BILL.

The Hon'ble MR QUINTON moved that the Bill to make better provision for recovering certain public demands be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble, Peile and Westland, the Hon'ble Colonel Wace and the Mover. He said:—

"In introducing the Bill last week I explained that its object was to facilitate and legalize the action of Revenue-officers throughout British India in realizing arrears of the Government demand from defaulters who were or possessed property in districts other than that in which the arrear had accrued.

"The means by which the Bill proposes to effect this object are simple. It adopts to a certain extent the procedure already established by a local law in the Lower Provinces of Bengal, and directs the Collector of the district in which the arrear has accrued, when he finds it necessary, to draw up a certificate showing the name and other particulars necessary for the identification of the defaulter, the amount of the arrear and the account on which it is due, and to send this certificate to the Collector of the district in which the defaulter at the

time is or possesses property. The Collector of that district will on receipt of the certificate proceed to realize the same interest in it from the defaulter as if it were an arrear of revenue which had accrued in his own district.

"To guard against the possibility of wrong arising from substantial errors in the certificate, we have, following provisions which exist in the Land-revenue Codes of nearly all provinces, empowered a person denying his liability who has paid the sum demanded under protest to sue Government for a refund of the amount so paid or any part of it notwithstanding anything contained in the certificate. Such suit must be brought in the district from which the certificate issued.

"To prevent fraudulent transfers made to defeat the claim of Government, we have authorized the Collector on receipt of the certificate to issue a proclamation prohibiting any transfer of immoveable property in the district belonging to the defaulter, and have declared to be void all transfers of such property made after the issue of the proclamation so long as it remains in force.

"As I stated when introducing the Bill, we have enabled public officers or local authorities charged with the collection of public moneys recoverable as arrears of land-revenue to call on the Collector of the district in which such sums are payable to recover arrears due to them, and empowered the Collector to act on the requisition; and finally we have specially saved all securities provided by any other enactment for the time being in force for the recovery of land-revenue or sums recoverable as land-revenue."

The Motion was put and agreed to.

PUNJAB TENANCY BILL.

The Hon'ble COLONEL WACE moved that the Bill to amend the Law relating to the Tenancy of Land in the Punjab be referred back for further consideration to the Select Committee who before reported thereon, omitting from the Committee the Hon'ble Sir Auckland Colvin, who is temporarily absent from the Council, and that the Committee be instructed to present a further Report on the Bill a week hence. He said:—

"During the month which has elapsed since the Select Committee presented their first Report the provisions of the Bill have been again examined, with the result that we find it necessary to make a few additions, and also more numerous verbal corrections, than it would be convenient to introduce by motion when the Bill is finally considered in this Council."

The Motion was put and agreed to.

1887.] [*Colonel Wace.*]

PUNJAB LAND-REVENUE BILL.

The Hon'ble COLONEL WACE also moved that the Bill to amend and declare the Land-revenue Law of the Punjab be referred back for further consideration to the Select Committee who before reported thereon, omitting from the Committee the Hon'ble Sir Auckland Colvin, who is temporarily absent from the Council, and that the Committee be instructed to present a further Report on the Bill a week hence. He said:—

"The reasons for this motion are similar to those stated in respect of the Tenancy Bill. Though fewer corrections appear to be required in this Bill than in the Tenancy Bill, the two enactments are so closely connected that it will be convenient to treat both in the same manner. I may add that I propose to move the passing both of this Bill and of the Punjab Tenancy Bill before the close of the month of September."

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 7th September, 1887.

SIMLA;
The 2nd September, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

Note.—On the 24th August, 1887, the Council was adjourned to the 7th September, 1887, but the date was subsequently changed, by the order of His Excellency the President, to the 31st August, 1887.

Govt. C. Press, Simla.—No. 413 L. D.—2-9-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 7th September, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I E., P.C., *presiding.*
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Colonel E. G. Wace.
The Hon'ble Nawáb Nawazish Ali Khan, C.I.E.

PUNJAB TENANCY BILL.

The Hon'ble COLONEL WACE presented the Further Report of the Select Committee on the Bill to amend the Law relating to the Tenancy of Land in the Punjab.

PUNJAB LAND-REVENUE BILL.

The Hon'ble COLONEL WACE also presented the Further Report of the Select Committee on the Bill to amend and declare the Land-revenue Law of the Punjab.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON asked for leave to postpone the presentation of the Report of the Select Committee on the Bill to establish a University at Allahabad.

Leave was granted.

The Council adjourned to Wednesday, the 14th September, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

SIMLA;
The 8th September, 1887.

Govt. C. Press, Simla.—No. 432 L. D.—8-9-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 14th September, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I E., P.C., *presiding.*
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B , C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Nawáb Nawázish Ali Khán, C.I.E.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON presented the Report of the Select Committee on the Bill to establish a University at Allahabad.

The Council adjourned to Thursday, the 22nd September, 1887.

SIMLA;
The 14th September, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

Govt. C. Press, Simla —No 448 L D.—14-9-87 —316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 22nd September, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of the Punjab.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Colonel E. G. Wace.
The Hon'ble Nawáb Nawázish Ali Khán, C.I.E.

KING OF OUDH'S ESTATE BILL.

The Hon'ble MR. SCOBLE applied to His Excellency the President to suspend the Rules for the Conduct of Business in order to enable him to introduce a Bill to provide for the Administration of the Estate of the late King of Oudh. He said:—

"His Majesty died yesterday, and, in view of the peculiar circumstances which marked his legal position and the state of his family, it is desirable that steps should at once be taken to secure his property and to provide for its distribution without exposing it to the risk of robbery or the delays and costs of litigation.

"As the Council is aware, His late Majesty was, during his lifetime, exempt from the jurisdiction of the Civil Courts. Three Acts of this Council have been passed securing to him special immunities and privileges. By the first, Act XIV of 1860, provision was made for the execution of process within the precincts of the residence occupied by the King at Garden Reach. By the second, Act VIII of 1862, with a view to protect his personal dignity, His Majesty was partially exempted from the jurisdiction of the Civil and Revenue Courts, and

from that of the Criminal Courts except in regard to offences punishable with death under the Indian Penal Code. By the third, Act XIII of 1868, it was provided that no suit or process should be allowed against the King's person or property unless with the previous consent of the Governor General in Council; and His Majesty was further declared incapable of entering into any contract which might give rise to any pecuniary obligation on his part.

"The King having been thus *solutus lege* in his lifetime by reason of the consideration shown him by Government, I venture to think that exceptional legislation is justified for the administration of his estate after his death. But there are other considerations which point to the same conclusion. I understand that there are between three and four thousand persons at Garden Reach who are dependent on the King, and whose occupation will be lost by his death. The situation is still further complicated by the fact that some weeks ago the King's seals were stolen from his palace, and have not improbably been used to give apparent authenticity to a variety of false documents. To provide for the claims of his enormous household and to put a check on the presentation of fraudulent demands it is proposed that the Governor General in Council shall have exclusive authority to act in the administration of the property of whatever nature left by His late Majesty the King of Oudh in regard to the settlement and satisfaction of claims against the estate of His late Majesty, and may make distribution of the remaining property or the proceeds thereof in such manner as he deems fit among the family and dependents of His late Majesty; and that no act of the Governor General in Council in connection with the administration to or distribution of the property left by His late Majesty shall be liable to be questioned in any Court,

"As the Agent to the Governor General with His late Majesty, immediately upon the King's death, took possession, under instructions from the Government of India, of all the property in the palace, it is proposed to indemnify him and all persons acting under his orders from all liability in respect of the measures taken by them for the preservation of that property. And, as a final precaution, it is proposed to enact that no testamentary or other disposition made by His late Majesty, and no proceedings that have been, or may be, instituted in any Civil Court, shall interfere with, or defeat, the exclusive authority of the Government to act in the administration of the estate.

"I may mention that similar measures were taken in the case of the Nawáb of Surat, and that the legislation now proposed finds a precedent in Act XVIII of 1848."

1887.] [*The President; Mr. Scoble; Colonel Wace.*]

THE PRESIDENT declared the Rules suspended.

The Hon'ble MR. SCOBLE introduced the Bill, explaining that he proposed, after the other business of the Council was disposed of, to move that the Bill be taken into consideration.

PUNJAB TENANCY BILL.

The Hon'ble COLONEL WACE moved that the Reports of the Select Committee on the Bill to amend the Law relating to the Tenancy of Land in the Punjab be taken into consideration. He said:—

"When my predecessor introduced this Bill into the Council fifteen months ago, he gave a very full explanation of the circumstances with reference to which it had been framed, and of the results which it was intended to secure. In particular he explained that it was the desire of Government to depart as little as possible from the principles and policy expressed in the Punjab Tenancy Act enacted in 1868, to supply some admitted oversights and defects, and to adopt some of the suggestions made by the Famine Commission with a view to improving the relations of landlords and tenants generally.

"It is by these aims that the Select Committee have been guided in their labours. When, on the 27th of July last, I presented the first Report of the Committee, I entered into a detailed explanation of the alterations made in the Bill subsequently to its introduction; and to recapitulate on this occasion what I then said would be a superfluous task. Of the alterations proposed in the Committee's second Report there are only two which call for special explanation. The first is the alteration of clause (*c*) of sub-section (*1*) of section 5 of the Bill. Under the corresponding clause of the Act of 1868, if a tenant holding in the year 1868 was the representative of a cultivator who settled in the village when it was founded, that tenant was entitled to a right of occupancy. My predecessor, when introducing the Bill, explained the necessity that was felt for granting this privileged status not only to the representatives of cultivators who settled at the village founding, but also to such cultivators themselves in the instances in which they had survived up to the year 1868. But when the Hon'ble Nawáb Nawázish Ali Khan joined the Council, about the time that the Select Committee presented their first Report, he proposed that the clause as thus altered should be qualified with reference to the circumstances under which the tenant was settled. My hon'ble friend, in

a memorandum which he submitted to the Select Committee on the subject, explained that—

'those persons who settle in a village with its founders can be divided into two classes, namely, (*1*) those who have rendered assistance to the landlord in the foundation of the village by clearing and reclaiming lands and cutting trees and making houses and wells at their own expense, and (*2*) those who have rendered no such assistance and have simply occupied the land, which was in every way prepared for cultivation by the landlord himself or at his expense.'

"And he urged that the latter of these two classes were not entitled to rights of occupancy.

"In our Report we have so far adopted the view thus urged as to recommend the addition to section 5 of words enabling a landlord to rebut in this particular class of cases the tenant's claim to occupancy-right by showing that the tenant was settled on land previously cleared and brought under cultivation by or at the expense of the landlord. This alteration will not invalidate any right of occupancy that has already accrued under the Act of 1868; against any such invalidation section 11 of the Bill provides a sufficient safeguard. The words added merely enable a landlord to show that a tenant of this class not already privileged under the Act of 1868 entered at the village founding under circumstances which give him no claim to special protection. I believe that the appropriateness of this addition will be readily admitted.

"I pass on to the second point, namely, the alterations which we have introduced into section 84 relating to the exercise of the power of revision. These are in accord with the views on the subject expressed by the Hon'ble Mr. Ilbert when the Punjab Courts Act of 1884 was passed into law. His remarks on that occasion pointed to the difficulty of foreseeing how a revisional authority, expressed of necessity in wide and general terms, would in practice be interpreted; but he urged, quoting the words of Mr. Justice West, that in India, as in England, the exercise of this extraordinary jurisdiction should be discretional, and that it should be used only to sustain the regular course of judicial administration, and not to promote uncertainty and restlessness by an over-nice scrutiny of proceedings which should aim at promptness rather than at refinement.

"To this end we have made it plain that the putting in motion of this exceptional jurisdiction is a matter for the discretion of the revenue-authorities, and that this discretion should be exercised strictly with reference to their own

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judgment of its expediency, and not on the motion of parties seeking by this means to obtain an appeal from which the law has debarred them.

"Passing on to more general considerations,—it would be sanguine to expect that a measure of this importance could be introduced into and carried through this Council without encountering unfavourable criticism. It has been said of this Bill that it aimed at an unnecessary extension of the conditions under which tenants are entitled to rights of occupancy, that it provided a scale of rent unduly favourable to those tenants, that it contemplated the enlargement of their powers of alienation without showing any due cause for this innovation, that its provisions relating to compensation on ejectment were calculated to place material obstacles in the way of successfully executing decrees for ejectment, and finally that the Bill has been unduly elaborated. I propose to respond briefly to each of these criticisms.

"As regards the admission of new claims to rights of occupancy, the power of a tenant with a right of occupancy to alienate his land, and the treatment of claims to compensation on ejectment, it will I believe be admitted that the changes made in the Bill since its introduction have to a large extent met the apprehensions at first expressed.

"As regards the scale of rent to which tenants with rights of occupancy will in future be liable, the provisions of the Bill are undoubtedly open to this criticism that we have preferred that method of adjusting these rents which was successfully followed in the first years of our administration of the Punjab to the newer method introduced for the first time in 1868, which subsequent experience has shown to be of difficult application and to involve protracted and uncertain litigation. Under the existing law it has been difficult for a landlord to obtain an enhancement of rent, and even in the cases in which he succeeded the litigation by which it was obtained was likely to cost him more than the enhancement was worth. Under the provisions of this Bill the landlord will perhaps obtain a smaller enhancement, but he will obtain it more easily. Moreover, I am myself convinced that this enhancement, though smaller than was theoretically possible under the existing Act, is as large as can justly be allowed; and I believe this opinion is shared by the majority of those Revenue-officers who have enjoyed special opportunities of observing the condition of our agricultural classes.

"That the Bill has been unnecessarily elaborated is a criticism the merits of which will not be duly appreciated unless it is weighed in connection with the existing condition of the rest of the Punjab Code. For instance,

the Punjab Laws Act of 1872 disposes of a long list of important subjects in 52 sections. Some of the principal subjects comprised in this list are succession, marriage, minority, family relationship, pre-emption, insolvency, Courts of Wards, village-police and the track law. On the assumption that so brief an enactment deals adequately with these important subjects, it is no doubt difficult to justify the fuller treatment of only one branch of the law in so lengthy an enactment as that now before this Council.

"But the time is past when large branches of the law can be dealt with in the comparatively brief style of the local laws enacted twenty years ago. Whether it is convenient to propose new legislation on any subject, as, for instance, we are beginning to feel may be necessary if we are to deal adequately with the extremely important problems involved in the successful administration of the canals and forests of the Punjab, or with those left open to every uncertainty of litigation by the existing Punjab Laws Act, is a question that cannot be decided at any time without weighing other considerations than those immediately connected with the imperfections and shortcomings of existing enactments. But when the decision has once been taken to revise any of the older laws, then to shrink from the task of adjusting that law to the larger wants of the present time, to neglect the opportunity of incorporating rules of which the utility has been established in adjacent provinces, and to refrain from re-drafting obscure provisions in terms suited for the guidance of that great majority of our Courts, officers and legal practitioners who have scant leisure or opportunity to study books of reference and little legal training to supply the place of such aids—this would be a course that would give juster cause for dissatisfaction than is likely to be found in the increased fullness and precision of the new enactments.

"To other and wider criticisms, such as those which attack on independent grounds the merits of those rights of occupancy the protection of which is one of the chief objects of this Bill, which dispute the consistency of declaring such rights and at the same time enforcing restrictions on their devolution and succession, and which challenge the wisdom of invalidating any agreements whatever into which landlords and tenants may enter with each other; it will suffice to reply that equally we ourselves and our predecessors in 1868 have, not perhaps with entire freedom from error and misconception, endeavoured to limit our action to the support of rights as ascertained by competent enquiry, and to bear in mind that, where persons stand to each other in the relation of landlord and tenant, we cannot give to one of these two classes without by so much taking from the other; and, if in respect of a limited class of matters, such as the encouragement of improvements,

the protection of statutory rights of occupancy and the claims of a tenant to fair treatment under unforeseen calamity or on ejectment, we have provided that the law shall prevail over previous usage and future agreements, we have done this in deference to conclusions based on wide experience and enquiry in all the provinces of Northern India."

The Hon'ble NAWÁB NAWÁZISH ALI KHÁN addressed the Council in a Vernacular speech, a translation of which was read by Mr. Harvey James, the Secretary, as follows:—

"The provisions of the Act of 1868, with respect to the enhancement of rent and the acquisition of the right of occupancy, were found so defective as to have given rise in some districts to a ruinous litigation, and a change in them was rendered indispensably necessary. Therefore, after some correspondence between the Local and the Supreme Governments, the preparation of this Bill was undertaken. On the announcement of this decision great anxiety was naturally felt by the people, and some of their fears were no doubt confirmed by the Bill which was introduced. But afterwards the Bill, together with the opinions of the officers and of the inhabitants of this Province, was carefully considered by the Select Committee, which, having paid due regard to those opinions and keeping the advantage of both the *landlords* and the *tenants* in view, made many alterations and additions in the Bill, so that it assumed its present form, and this form in my opinion is a most satisfactory one. I have carefully examined the Bill and I approve highly its provisions, with the exception of section 22, in which the proposed rate of rent is so low that the section is likely to prove injurious to the landlords. With this exception I firmly believe that the revised Bill is most suited to give complete satisfaction to both the landlords and the tenants, and to extirpate the dubious litigation which formerly attended many suits, and, providing clearly for every thing, it will likewise save the Courts a great deal of trouble. In conclusion, I wish to thank His Excellency the Governor General and my hon'ble colleagues for their undertaking a task of so great a magnitude and performing it with such a degree of success. I have also thoroughly gone through the Land-revenue Bill and fully approve of all the sections contained therein."

His Honour THE LIEUTENANT-GOVERNOR said:—

"I do not think it necessary to occupy the time of the Council by making any remarks on the details of the Bill. Since it was first introduced it has been repeatedly considered in Committee, and has been subjected to most exhaustive criticism by the Judges of the Chief Court, the Lahore Committee and a num-

ber of other gentlemen of experience, Native and European. All these criticisms have been carefully considered, and the amendments which the Bill has undergone are detailed and explained in the Select Committee's Reports dated 27th July and 7th September, and in the speeches in this Council of my friend Colonel Wace, the member in charge of the Bill. My predecessor in office, Sir C. U. Aitchison, in his speech in this Council in July, 1886, on the Motion to refer to a Select Committee the Bill as originally introduced, remarked that it was an amending Bill and of a very limited scope; he added that the only important changes which it introduced were not changes of principle but alterations or additions necessitated by practical experience of difficulties in the working or in the interpreting of the existing law. This is even still more true of the Bill as now finally revised by the Select Committee, for in matters affecting the rights of landlords and tenants as distinct from matters of jurisdiction and procedure the amendments which the Committee have made are entirely in the direction of closer adherence to the Act of 1868. I am convinced that the Committee has been wisely guided in making these amendments, and I look upon the transfer to this Bill of the rules of jurisdiction and procedure now contained in Chapter VII as a very convenient addition, which will be of much use in guiding Revenue-officers and Courts in the right administration of the law. As Financial Commissioner of the Punjab I was one of the officers who had a part in 1881 and 1882 in pressing for an amendment of the Act of 1868: that Act had had the effect of settling the controversies raised by Mr. Prinsep's settlement-proceedings, and had tended generally to maintain the old order of things undisturbed; but for 10 or 15 years after it passed the instances in which either proprietor or tenant took action upon its provisions were for various causes extremely rare. But latterly it became evident to lookers-on that some of these deterring causes would soon disappear and that there was every probability that in a short time the provisions of the Act would be extensively brought into play and severely tested. I think I may confidently say that all the most experienced officers of the Punjab Commission regarded the prospect with gave apprehension, not in the tenant's interest only but also in that of the proprietors. Such litigation as had occurred was sufficient to show that the law would in some important respects be most capricious in action and that in other directions it was likely to result in an unusual number of hard cases. Speaking for the Local Government I can now say that I have no such apprehensions in respect to the effect of the Bill now before the Council and that I shall not be afraid to see its provisions extensively applied. I believe the Revenue-officers and the Courts will find the law which it contains a good basis for equitable orders and

decisions and generally a clear and safe guide, though no doubt a few flaws will be in time detected. I can say in words which Sir Charles Aitchison used, in the speech which I have already quoted, that I sincerely believe that the Bill when it becomes law will tend to foster and preserve the friendly relations which happily have hitherto existed in this province between landlords and their tenants."

The Hon'ble MR. PEILE said :—

"After the statement which we have just heard from His Honour the Lieutenant-Governor, whose knowledge of the Punjab and its tenures is, we know, profound, some of the remarks which I proposed to make on the Bill may perhaps be deemed superfluous. But I differ from His Honour in this respect that I approach the subject as an observer from without, and also as the member of Your Lordship's Government who is primarily responsible for the administration of the land-revenue. While therefore I am deeply sensible of the disadvantage at which such a duty is undertaken by one who has had no personal experience of the rights and customs connected with property in the land of the province with which he is dealing, I ask leave to state to the Council how the principal points of the Bill present themselves to me. After a careful study of much that has been written on the subject, I am impressed with the feeling that, if legislation which touches on the disposition of interests in land in any part of India is a matter of anxious thought and care to Your Lordship's Government, it is especially so in the Punjab, where in amending the Tenancy Act of 1868 the legislature treads on the embers of a glowing controversy which no one desires to revive. We propose today to repeal the first Land Act of the British Government for the Punjab—an Act which, after much warm debate and a great conflict of opinions, was accepted as a compromise designed to lay to rest the contention between the advocates of the right of the landlord and the advocates of the right of the privileged tenant. The Act answered its purpose, and the balance of the compromise which it effected should not be lightly disturbed. If it cannot be said that the Bill before the Council does not affect it at all, I think it will be apparent that we have not without good reason agreed to transfer any weight from the one scale to the other. In the division of the interests in land in the Punjab there is much which is at first sight perplexing. But I think we may safely say that the usage and sentiment which were the unwritten law in these matters before the days of Legislative Councils, are much akin to the principle which is recognized as the fundamental principle of tenant-right elsewhere in India. The main principle is that the occupant of the soil is entitled to remain on his holding, as long as he pays to the Government or a landlord the share of

the produce fixed by custom or the decree of the ruling power, and that the capricious expulsion of an old tenant is condemned by public opinion as unjust. To this may be added in the Punjab that the tenant who has redeemed his holding from waste has the strongest claim to fixity of tenure, while on the other hand the landlord has asserted a right to evict when he wants the tenant's land for his own cultivation. I must confess that in a country of peasant-proprietors like the Punjab this last rider to the principle appears to be clothed with a fair show of reason. But it was not established that there was any practice of eviction, nor where the rent is a share of the produce fixed by custom is there any room for eviction with a view to enhance rent. Consequently Sir Henry Maine in the debate on the Tenancy Act described the asserted custom of eviction as 'a customary mode of doing that which never was done.' Nevertheless the then Lieutenant-Governor, Sir Donald Macleod, among others, did so far see reason in the contention that the landlord should be entitled to resume his tenant's land if he needed more land to cultivate himself, that he was in favour of allowing the landlord to buy out long resident tenants by paying such compensation as would enable the tenant to establish himself elsewhere. This opinion found a limited expression in section 19 of the Act of 1868, a half-hearted enactment which has become practically obsolete by virtue of the conditions attached to it on the motion of Sir Richard Temple, and it has not been reproduced in this Bill. In the end it was agreed that the Act should secure fixity of tenure to certain special classes, such as ex-proprietory tenants and old hereditary tenants who had never paid rent,—a variety of tenure which probably transcends any experiences of Her Majesty's Law Courts in Ireland,—but they were in fact tenants whom the village managing body associated with them in bearing the burthen of the crushing assessment of the Sikh Government, and who paid the quota of the Government demand assessed upon their holdings, but nothing more. It was agreed also to protect the tenants who by the decision of the Settlement-officers had been recorded before 1868 as possessing occupancy-right in virtue of long undisturbed occupation, with the proviso that on specified grounds the landlord might attack this presumption of right in a suit. But the Act contains no provision for the further accrual of occupancy-rights.

"It may perhaps be argued that in the omission of all such provision the Government did not maintain its usual policy declared in the Regulation of 1793 and expressed in more than one provincial land law, and that the omission should now be corrected by some large extension of tenant-right. But in a province where 60 per cent. of the area under the plough is tilled by small landholders in properties averaging about 25 acres, the development of tenant-right is

not a question of the same dimensions as in a province of great zamindárs, and the needs of an increasing landowner population may justly be considered. The Act of 1868 therefore contained no enactment for the accrual of right to fixity of tenure by mere efflux of time, or otherwise than by proof of custom or agreement, and in this respect the Bill does not alter it. It does in some matters afford protection to the tenant-at-will, and defines more clearly for his benefit the relations between him and his landlord, but it does not provide that, as in Bengal and the North-Western Provinces, a tenant who has occupied or cultivated land continuously for twelve years shall be a settled raiyat with a right of occupancy in that land. It does not, as in the Central Provinces, empower the ordinary tenant to acquire occupancy-rights by purchase. Undoubtedly, where there is no provision for recruiting occupancy-tenants by fresh accrual, the area of occupancy-tenancies will tend to diminish. We see such a decrease of old tenancies in the North-Western Provinces, where however it is more than recouped by fresh accretions under the twelve years section of the Rent Act. But in the Punjab, as I have said; 60 per cent. of the cultivated land is in the hands of the proprietors, whereas in the North-Western Provinces the proprietors cultivate only 26 per cent.; and this fact goes far to justify us in adhering to the policy adopted by our predecessors in this Council in 1868.

"The Bill does however in certain respects alter the old law as to privileged tenants. It is claimed for these alterations that they are of the nature of developments of the purpose of the old Act rather than invasions of its principle. They will, we are assured, change little in the Punjab itself, and affect chiefly the tract known as the old Delhi territory, which extends southwards from the Sutlej between Rajputana and the Jumna, and which, becoming a British possession far earlier than the Sikh Kingdom, has a curious administrative history of its own as a frontier province. In parts of this territory, as in Sirsa and Hissar, villages were founded on waste-land in the generation before 1868. Many cultivators who were settled in such villages with or by the founders, had the special claim to fixity of tenure which attaches to the man who reclaims land from the waste, but were excluded by the wording of the section of the Act of 1868, which, while recognizing the claim, threw the origin of the right back to a remoter time. The Hon'ble Colonel Wace has explained the condition on which occupancy-rights are extended to these tenants by this Bill.

"Again, while there was a class of villagers of higher status in whom the village-management was vested, in regard to the privileges attaching to cultivating possession there was little or no distinction between this class and the body of

regular cultivators. These latter paid generally only their share of the Government revenue and village-expenses, and, if any recognition of superior right at all, a few handfuls of grain. Now, though these men were recorded by the early Settlement-officers as tenants without occupancy-rights, their rent was fixed at revenue-rates and they were otherwise protected. But here again the words of the Act of 1868, as interpreted—and no doubt rightly interpreted—by the Chief Court, were somewhat too narrow to meet the full equities of the case. Numbers of these tenants who were recorded at the regular settlements of 1852 to 1864 as tenants-at-will, held and have held from that day to this the strong position above described, and their privileges may fairly be regarded as having matured into rights of fixed tenure. We therefore propose to put ourselves as regards them in the position of the legislators of 1868, and once more make the date of the passing of the Bill before us an epoch at which the occupation of land for more than two generations or for thirty years on payment of revenue-rates shall be deemed to establish occupancy-rights. We do not, as first proposed, allow this form of title to accrue hereafter, nor do we entirely exempt those who may claim occupancy-rights under the amended clause from paying rent, but we maintain them in what is in substance their actual position. What we propose is to confirm an existing status rather than to create a new one. The first clause of section 5 gives the right of fixed tenure only to tenants who during an occupancy of twenty or thirty years before 1887 have never paid any rent or rendered any service. They have in fact cultivated side by side with the men recorded as proprietors with practically identical privileges under the ægis of custom, though not, since 1868, under the ægis of the law.

"That is the extent to which we have thought it expedient to go in the enlargement of occupancy-tenancies by this Bill.

"To tenants-at-will who clear and bring waste-land under cultivation we have not given occupancy-rights on that ground, but the claim to security of tenure which has always been admitted in the case of clearing tenants has been recognized by entitling them to compensation for disturbance as well as compensation for improvements.

"Then I pass to the second chief point of difference between the old Act and this Bill.

"The Bill proposes to fix the rents of privileged tenants at a percentage on the land-revenue, and not, as in the Act, at something below the rent paid by tenants-at-will. This will be a method peculiar to the Punjab Tenancy Act.

It finds place in the land law of no other Indian province. But it is not a new method in the Punjab. The Government which preceded ours was accustomed to take to itself the entire net rent of the land, leaving no margin for the owner. The tenant, paying a customary grain-rent, was presumably protected in the enjoyment of his share of the crop. But the other proprietary interest got no consideration whatever. The Government official went to whoever was the man in possession—whether village-manager or old tenant or new tenant—and swept off direct from him the whole net rent. If the man of superior status got anything, it was only a few seers of grain. Then, when our Government came in and we began to make settlements, the Settlement-officers fixed the revenue in cash instead of grain, and the landlord's rent-charge, if any was recognized, at so many annas on the rupee of land-revenue. Rules were issued which restricted the zamindárs' rent to fixed percentages on the land-revenue, and these rules were validated by the Councils Act of 1861. Now, one thing which the Act of 1868 did by its second section was to give what Sir Fitz-james Stephen called a sacred character to certain entries in the records of a regular settlement, which was extended by the Land-revenue Act of 1871 to the record of regular settlements made before the 18th of November in that year. Entries in such records, when attested by the proper officer, and relating, among other things, to rent and its enhancement, were to be deemed agreements and not to be affected by the Act. Now, the hon'ble member who introduced the Bill said that by the force of that section the old light rents had been for the most part maintained up to the present time, and what he meant was that in the early settlements the rents of privileged tenants, consisting, as I have explained, of the land-revenue and cesses plus a malikana of so many annas in the rupee of revenue, were fixed unalterably for the term of settlements which have recently expired or are expiring. So that the effect of this section has been to maintain the form of rent introduced authoritatively by the first Settlement-officers almost down to the present time, and it is only after a revised settlement that these rents can be altered. By far the greater number of privileged tenants who pay in cash—some 280,000 out of 390,000—still pay either the revenue only or the revenue plus malikana. This explains how the method of the Bill is really not a novelty, and is designed to anticipate an evil which is likely to spring up rather than to remedy one which already exists.

"Now, it certainly was the intention of the legislature in 1868 to enable the landlord to obtain from the privileged tenant a reasonable rent, reduced, according to the grade of privilege, more or less below the rent of the unprotected raiyat, and this Bill could not be justified if it failed to fulfil that intention. But it is also

clear from the debate in this Council on the Act of 1868 that section 11 was framed on the understanding that the Government revenue was half the net rent, as it still in theory purports to be. On that assumption the most privileged tenant, whose rent was limited to 50 per cent. of an ordinary rent, would pay simply the Government revenue and nothing to his landlord. The less privileged tenants would pay as rent two-fifths or seven-tenths of the revenue according to class. But in the first place it has proved to be a difficult matter to discover what is the usual rent of the tenant-at-will by which the rent of the privileged tenant was to be gauged, and secondly the rent of the tenant-at-will is not definite and stable enough for a basis, because it depends on the discretion of the landlord and not on any statutory limit. The privilege of paying 15 per cent less than a competition-rent is not a very tangible privilege. A right to have any substantial value must be expressed in definite terms, and the terms of section 11 are not as definite as they were meant to be. That is the explanation of the peculiar provisions which have been substituted for section 11 in this Bill. My hon'ble friend the Nawáb Nawázish Ali Khán would have liked the maximum rent-rates therein fixed for privileged tenants to be somewhat higher. Now, this is a matter of the kind on which a Select Committee goes for guidance to local experience, and the local experience by which we were guided in this case was that of the eminent body of Punjab Revenue-officers and Native gentlemen which is known in the literature of this Bill as the Lahore Committee. That Committee advised an increase of the rent-rates proposed in the first draft of the Bill for all but the most privileged class of tenants. Their views were approved by Sir Charles Aitchison, and the Select Committee adopted their rates without modification and as they stand now in the Bill. In my opinion, if the rates are carefully examined, they will not be found to be more favourable to the various grades of privileged tenants than was section 11 interpreted on the assumption that the Government revenue absorbs half the net rent. Perhaps they are even less favourable. But I agree with the hon'ble member in charge of the Bill that they are not unfair to either party. When the increasing moderation of the Government assessment allowed a margin of profit once more to emerge between the customary share of the cultivator and the share of the State, it is clear that the landlord had the first claim to that margin. It has been said that, as the Government by reducing its demand from the whole net produce to a part of it revived or created rent, it was entitled to dispose of its own creation as it thought fit. But it was obviously the landlord and not the tenant who lost his property when the former Government appropriated the whole rent, and the Secretary of State very justly declined in 1869 to assert a power of free dealing with rights which had recovered their value under a good system of government.

"On the other hand it is right that the occupancy-tenant should have appointed for his rent-rate a definite maximum easily ascertainable by the Rent Court, and I see no objection to defining his rent on this exact basis, though no doubt it establishes a broad line of distinction between the rent of the privileged tenant and the rent of the tenant-at-will, which we have not felt equally justified in safeguarding from the ordinary action of free contract and competition.

"These are the reasons in favour of this form of enactment which were accepted by Your Lordship's Government and the Secretary of State.

"The maximum rent-rates in section 22 are not immutable, but will vary with the land-revenue, which again varies with the profits of agriculture. Rents already above the maxima, of which there are said to be few, are not reducible by the Bill. Rents now below the maxima, which are believed to form the great majority, can be enhanced to the maxima only by such steps as the Rent Court deems fair and reasonable.

"It is not necessary that I should pursue the examination of the policy of the Bill, further than the hon'ble member in charge has pursued it, into the incidents of rent, such as adjustment or remission, or into the incidents of tenure, such as relinquishment and ejectment or alienation and succession. The hon'ble member has explained that, while the law in these matters has been made clearer, there is hardly any substantive change. In connection with these and other interests of the tenants, I may call attention to the important sections, now in Chapter VIII at the end of the Bill, prescribing the extent to which the law, on grounds of public policy, will prevail over certain entries in records-of-rights, and over agreements made between landlords and tenants after the passing of the Act, and conversely defining the particulars in which we have deemed it just that the saving force of section 2 of the Act of 1868 should be preserved. On the other hand, sections have been introduced which give to the landlord the right of making improvements on privileged tenancies with due provision for the protection of the tenant, and of obtaining an increase of rent on their account.

"The seventh chapter of the Bill deals with jurisdiction and procedure. In distributing between this Bill and the Land-revenue Bill the portions of the subject-matter which come within the province of each, it seemed expedient to transfer to the one or the other certain chapters of the Punjab Courts Act of 1884. It was therefore proposed to make this Bill complete by embodying in it Chapter V of the Courts Act, which treats of Revenue Courts; and in doing so we have been careful to alter as little as possible the settlement of the powers and duties of Revenue Courts arrived at, not without controversy, only three years ago. The Act of 1884 was an important step in the separa-

tion of executive and judicial functions which formed a necessary part of the re-organization of civil administration in the Punjab in that year. It was then decided that, while the Commissioners were relieved of the bulk of their judicial duties, the cognizance of certain suits relating to land should remain with the Revenue-officers as Revenue Courts, with appeal to the Commissioner and Financial Commissioner instead of the Chief Court. The assignment of appellate jurisdiction to the superior Revenue-authorities, and not as in the North-Western Provinces to the Civil Courts of appeal, was adopted as suitable to the Punjab and as affording relief to the Civil Courts. The law for the jurisdiction and procedure of Revenue Courts, enacted as part of the Courts Act, finds a more appropriate place in the land law, and has therefore been transferred without important change from the Courts Act to this Bill.

"My Lord, I have briefly touched on the salient points of the Bill. The hon'ble member in charge has reminded us that the Bill has been called, in its earlier stages at least, a tenants' Bill. I do not think that as it now stands, and in comparison with the land laws of other Indian provinces, that criticism is just. I should rather call it a landlords' Bill. But Your Lordship's Government would not advise this Council to adopt it if it were either the one or the other in the sense of holding the scales inequitably between the two co-existing interests. I believe that in the special circumstances of the Punjab peasant-proprietors it is not open to any such criticism, and that it is a fair measure. It has been revised and again revised, and in its final form has been generally accepted. I am therefore in favour of passing it into law, and I trust that it will give such finality as a legislature can hope to secure to the settlement of the important questions with which it deals."

The Hon'ble COLONEL WACE said:—"I ask the permission of the Council to make a few remarks suggested by one observation that fell from my hon'ble friend Mr. Peile. He expresses an apprehension that in course of time the area held by occupancy-tenants in the Punjab would under the provisions of this Bill tend to diminish. In saying a few words on this point I wish to be understood as speaking rather from the existing tenures and existing customs of the Punjab than as attempting to give any forecast of what may happen during the ensuing 30 or 40 years. No doubt, in cases in which we find a small body of occupancy-tenants holding land under a stronger body of landowners who are themselves cultivators, the tendency is for these occupancy-tenants to die out, and for the landowners, who are often in needy circumstances, to watch carefully against the accrual of any new rights of this nature. But there are large portions of the Punjab, especially in the south-west-

ern districts, where there is nothing more remarkable than the liberality of the usages and agreements by which the landowners allow tenants to acquire rights of occupancy, and in these districts the difficulties of husbandry and the uncertainties of the harvests are so great that I think we may hope that these occupancy-rights will not diminish but will be continued with the same liberality as has existed in the past. I may mention that in the Sirsa settlement, a few years ago, we were surprised by the liberality with which, in spite of somewhat strained relations between landowners and tenants, the landowners at the last stage of the proceedings admitted of their own agreement tenant-rights in more numerous instances and over larger areas than were covered by the previously existing record. It is also just that I should acknowledge that in my dealings with the larger landowners of the Punjab I have in many cases found them willing to give to their tenants a larger measure of occupancy-right than might have been obtained by those tenants under the strict provisions of the law, and I am confident that the feelings by which these grants have been actuated will continue to exist."

The Motion was put and agreed to.

The Hon'ble COLONEL WACE also moved that the following be substituted for section 11 of the Bill, namely :—

"11. Notwithstanding anything in the foregoing sections of this Chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table :—

Continuance of existing occupancy-rights.

PUNJAB TENANCY ACT, 1868.		THIS ACT.		
First Column.		Second Column.		
Section.	Clause.	Section.	Sub-section.	Clause.
5	(1)	5	(1)	(*a*)
5	(2)	5	(1)	(*b*)
5	(3)	5	(1)	(*c*)
5	(4)	5	(1)	(*d*)
6	...	6	...	...
8	...	8	...	...

He said:—"The amendment is a verbal one. Section 11 of the Bill as it at present stands is intended to secure to tenants who have been awarded rights under the Act of 1868 the privilege secured to similar tenants by the Bill under consideration. But the language used for the purpose is wanting in preciseness, and the proposed amendment is intended to remove this difficulty."

The Motion was put and agreed to.

The Hon'ble COLONEL WACE also moved that the Bill, as amended, be passed.

His Excellency THE PRESIDENT said:—

"Before putting this Motion to the Council I desire to congratulate my colleagues in the Government, as well as the members of the Legislative Council, upon the successful termination which has been reached in this important matter. Undoubtedly we are under the very greatest obligation to those members of the Committee who have undertaken the responsible and laborious task of shaping this Bill in so careful and conscientious a manner. Although it is perfectly true that the proposed Act may, in some sort, be called an amending Act, there can be no doubt that any piece of legislation which touches such important and extensive interests, unless very carefully drawn, is liable to inflict both injury and injustice. I am quite convinced that, thanks to the ability and care with which the clauses of the Bill have been drawn, this danger has been reduced to a minimum. I think we are also very much indebted to the Government of the Punjab for the manner in which they have given their attention to the subject. I also wish to express on behalf of all my colleagues our thanks to Mr. Peile for the interesting and clear manner in which he—and no man is in a better position than himself to undertake such a task—has described the general scope and objects of the measure.

"With these few observations I now beg to put the Motion made by Colonel Wace that this Bill, as amended, be passed."

The Motion was put and agreed to.

PUNJAB LAND-REVENUE BILL.

The Hon'ble COLONEL WACE also moved that the Reports of the Select Committee on the Bill to amend and declare the Land-revenue Law of the Punjab be taken into consideration. He said:—

"When the Bill was introduced into this Council and referred to the Select Committee nearly fifteen months ago, my predecessor explained that its main

object was to bring the existing law into better agreement with the changes of practice which have been established both in the preparation of records of rights and in the administration of the land-revenue since the enactment in 1871 of the existing Land-revenue Act.

"The Bill has been subjected in Select Committee to the same careful examination as the Tenancy Bill, and the changes consequently made in it were explained in the Select Committee's first Report and in the remarks which I made in this Council when I presented that Report.

"I do not desire to add on the present occasion more than a few brief remarks on the principal matters dealt with by the Bill.

"As first introduced it was not confined to the subject stated in its title, but dealt also with the jurisdiction and procedure of Revenue Courts, and with applications to Revenue-officers arising out of the Tenancy Act. From the Bill as now reported for our final consideration all these additional subjects have been excluded. It is now strictly what its title purports, namely, a Bill intended to regulate the administration of the land-revenue, and to secure the preparation and due maintenance of those records which are essential to this end.

"Speaking first on the subject of records, I need not explain in this Council the importance which from a very early period in the present century has been attached by the Government to the preparation and maintenance of accurate records of the agricultural tenures of the country. Thirty-eight years ago, when the Punjab was annexed to the empire, no documents which in any way served this purpose existed in any part of the province. By the year 1860 a sufficient record had been provided in almost all districts except those situate on the frontier, and by 1875 the record of the remaining districts was practically complete. But, so early as 1863, the Government, acting under the advice of its principal Revenue-officers, undertook in some of the most important districts of the Punjab a revision of the record-of-rights first prepared. I believe I am not wrong in saying that even at that early date there were officers among us who deprecated this revision, and would have preferred to have seen our efforts spent rather on the improvement of the annual papers than on the preparation of entirely new records. There were no doubt reasons of some weight for revising at least once the records-of-rights prepared immediately after annexation. But the course thus adopted certainly led up to results unfavourable to the general efficiency of our revenue-administration. It came to be tacitly assumed that we could not look for more than a very moderate standard of efficiency in the

patwári agency or of correctness in their annual papers; and year by year, as exact legal procedure and organised administration added fresh demands on the attention of our officers, it was natural that they should feel less and less inclined to give much attention to records for the periodical revision of which the Government was willing to provide separate trained establishments.

"This Bill expresses the definite decision of Government against such periodical revision by a separate agency. And, while I do not desire to under-rate the additional responsibility thus thrown on Revenue-officers engaged in current administration, I believe that the patwári establishment—an establishment maintained by a not inconsiderable tax on the profits of the landowners—has attained to a standard of efficiency sufficient to warrant the adoption of the course on which we have now resolved; and that, if our Revenue-officers at the appropriate agricultural seasons give a fair share of their time to the direction and supervision of that agency, the annual records prepared by the patwáris will be as accurate and complete as for practical purposes need be desired. We shall no doubt often need to be content with records less elaborate and pretentious than would be prepared by a more highly trained special agency; but I do not think that this is a result that we need regret; for the task of keeping any records correct to date is so onerous that elaborations rarely lead to greater accuracy, while the attempt to attain them is usually burdensome equally to the agriculturist and to the administration.

"In the Chapters on the assessment and collection of the land-revenue we have refrained from introducing any changes in the existing practice. There is probably no province in India which presents a greater variety of agricultural conditions than the Punjab—conditions varying from the rich husbandry of the sub-Himalayan districts secured by a certain and abundant rainfall, to that of almost rainless tracts dependent entirely on irrigation from canals and on the autumn floods of the great Punjab rivers, or where there is neither irrigation nor river floods, and such indifferent crops of pulse and millet as can be raised are dependent on an uncertain rainfall of only a few inches. Indeed, I could name one Settlement-officer's charge which contains within its own limits most of these variations.

"In a province that contains tracts so variously circumstanced no prudent administrator can advocate any one form of assessment as exclusively applicable—neither the fixed assessment system which our officers introduced at annexation from the North-Western Provinces, nor the system of assessment by rates on the results of each harvest which we have borrowed from the

Irrigation Department. We can only seek, as the Government demand in each tract comes under revision, to make an assessment on broad and simple grounds, deduced from the results of previous experience; as, for instance, to give contract assessments for fairly long terms where the profits of agriculture are secure and the tenures prosperous, or where the results of agriculture vary with causes beyond the control of the landowners to limit our demand to rates assessed on the results of each season; but under all circumstances basing our success as revenue-administrators rather on a careful adaptation of existing systems to the varying requirements of each tract, than on any set system framed in the ambitious hope of anticipating by official rules results that can be reached only by the safe teachings of a wider experience than we at present possess. Whether when the agriculture of the province has been secured against the fluctuations and uncertainties which at present surround it, and the average standard of agricultural skill and resources is higher than that now prevailing, it will be practicable to attain to a more uniform system is a question beyond the limits of our present task and duties.

"The chapter on surveys and boundaries is in very much the same condition as that in which it stood in the Bill when introduced.

"That on the partition of land has been added by the Select Committee. In the original Bill this important subject was disposed of in three sections. In the Bill as revised the established practice of the province previously expressed in the rules under the existing Land-revenue Act have been incorporated together with some additions from the law of the North-Western Provinces. And the chapter thus framed will, I believe, bring about a much-needed improvement in the manner in which this important class of business has hitherto been treated.

"The chapter on arbitration also is added from existing rules. There are some provisions in this chapter, especially that which enables a Revenue-officer to set aside the award of an arbitrator, which have provoked adverse comment. But I am convinced that these provisions cannot be altered without largely discouraging the employment of an agency from which our Revenue-officers have hitherto derived much assistance. The original civil procedure rules of the province contained similar provisions in respect of arbitrators; but with the introduction of the Civil Procedure Code of 1859 the award of arbitrators was made final, and can now only be set aside on very special and limited grounds. The result of this change has been to almost entirely put an end to the employment of arbitrators in civil causes, litigants with some reason declining to trust their interests to agents against whose decision, however faulty, there was practically

no remedy. I doubt whether, even as regards civil causes, this result is not to be regretted. But, as regards the class of cases dealt with by the Land-revenue Act, it would be matter for regret if by a change of law for which no necessity has been felt, and which would be supported rather by an analogy drawn from the civil law than by the merits of the case, we were to make it difficult for our Revenue-officers to avail themselves of the assistance of the principal men among the agricultural classes.

"Of the remaining provisions of this Bill I do not think it is necessary for me to speak particularly."

His Honour THE LIEUTENANT-GOVERNOR said:—

"I observe that this Bill seems to have attracted a comparatively small share of public interest, judging from newspaper comments and the opinions received since its introduction and publication. But as it now stands, after the exclusion of the chapter intended to apply to village waste-lands and other minor modifications made by the Committee, I do not think this small extent of public interest and criticism remarkable, for the Bill confers on the Executive no new powers encroaching on private rights.

"The Bill in fact will effect no important change in the substantive law, though it will greatly improve its expression; in some directions it will make the law more flexible, and so get rid of technical difficulties and useless restraints which the wording of the old Act has been found to impose: in other directions it will make the law more precise and definite, and so greatly reduce the number of subjects left open to be dealt with by rules.

"I concur in the remarks made by the hon'ble member in charge of the Bill on the chapters which deal with the subjects of records and assessments. I will only add that the old system of elaborate survey and compilation of records, carried out by large special establishments as an accompaniment to the periodical re-assessments of the revenue, was necessary in the past, but that it is in every way an advantage to be able to give the system up, as it was a great tax on the people, and often stirred up unnecessary litigation. The annual papers which will be prepared hereafter are no more elaborate than those which have always been demanded from the patwáris, but it is to be hoped and expected that in future they will be presumably true, not only in law but also in fact: formerly no presumption of the kind could be attached to them, as the system was quite inefficient. The practice of accepting annually from the patwáris a mass of returns known to be generally fudged and

unreliable was demoralizing to our officials and worse than useless. In respect to assessments, there were some sections in the old Act which, strictly interpreted, prescribed a procedure almost impossible to follow, and different from the practice which has always prevailed in this and other provinces: the Bill makes the law accord with the practice, and also puts on a clear legal basis the system of fluctuating assessments which it has been found necessary to adopt for the benefit of landholders in certain parts of the Punjab.

"In the chapter relating to collection of the land-revenue the assertion of the rule that the land-revenue is a first charge on the land is an old principle, the omission of which from the Act of 1871 is difficult to explain. The rule is required not only to protect the public revenue, but also to protect indebted landholders from Civil Court proceedings which might result in forcing the Revenue-officers to confiscate the landholders' title to the land.

"No new powers to enforce collections have been taken in this chapter, and some of the old powers have been modified by softening provisos.

"The sections in the chapters on partition and arbitration merely supersede with some important additions the rules on the subjects passed under the old Act and are better expressed. I agree with the hon'ble member in charge of the Bill in anticipating that the chapter on partition will much improve the procedure in these cases to the great benefit of the interests of the people concerned. The provision in section 117 which gives the Revenue-officer conducting a partition power to himself determine questions of title which arise, instead of referring objectors to a Civil Court, will, in my opinion, result in the quicker and better decision of those cases.

"I believe that the power to prevent illegal encroachments by co-sharers on common lands, contained in section 62, will prove a most useful provision. Cases of the kind are very common in the Punjab and create much litigation. On behalf of the Local Government I accept the Bill as a very useful amendment of the existing law, and believe that it may be safely passed by the Council."

The Hon'ble MR. PEILE said:—

"I have less to say on this Bill, which deals chiefly with procedure, than on the more important Tenancy Bill, which deals with substantive rights. In one respect the Bills are alike, namely, that as the Tenancy Bill will take the place of the first directly enacted land law for the Punjab, so this Bill is to be substituted for the more elementary Act, which was rough hewn by Sir Fitzjames Stephen

in 1871 out of the mass of Regulations and circulars which were appointed as a guide for the earlier revenue-administration. In fact, that first directly enacted revenue law for the Punjab was the first of its class in Northern India; and it was important as, among other things, assigning a definite legal effect to records-of-rights. As this Bill has been drafted and edited with great care and has met with general acceptance, it is needless for me to examine its provisions in detail, but I may advert to one chapter of it on which His Honour the Lieutenant-Governor and the hon'ble member in charge have both dwelt at some length, and which may perhaps claim to give effect to a part of the administrative policy of the Government of India more exactly than the other provincial Land-revenue Acts which have been enacted between 1871 and this date.

"I am speaking of Chapter IV, which directs how the record-of-rights in land shall be maintained. This chapter is distinct from those which treat of the assessment of land-revenue and of surveys, but that is not what makes it remarkable, for even Regulation IX of 1833 enacted that the preparation of the record-of-rights need not be conducted simultaneously with the ascertainment and determination of the amount of the Government demand; and in the Act of 1871 which we propose to repeal a re-settlement may be either for the re-assessment of revenue or for the revision of the record-of-rights. But the Act of 1871 further enacts that a record-of-rights once sanctioned shall not be revised until a district or area is again put under settlement. Now, the effect of that is that the record-of-rights prepared at the settlement becomes year by year more incorrect as the term of settlement runs on, and the village-registers, which note the matters wherein it requires correction, are mere memoranda kept with a view to the next periodic revision, and not in themselves vested with any legal validity. But, under Chapter IV of this Bill, the Revenue-officer will prepare an annual edition of the record-of-rights corrected up to date, entries in which will be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor; and in this way not only will there be at all times a correct record available as evidence in suits, but when the time for revising the assessment comes, the officer who performs that duty will find ready to his hand a great part of the data which are now specially worked up after long intervals, at no small cost, and with no little trouble to the agricultural people.

"It is hoped that by these means the revision of assessments may always take place at once as soon as the term of settlement expires. A large saving and an important gain to the public revenue has been secured in this way in other provinces. The reform is part of a larger administrative improvement which

is designed to increase our knowledge of the conditions of agriculture by the observation and collation of facts, with a view to assure ourselves of the equable and discriminating assessment of the land-revenue. The claim of the State to a share of the produce of land in India is not unpopular because it is sanctioned by immemorial custom, and it would be a most indefensible breach of public duty to be careless in the stewardship of this great branch of the public income, which Sir Fitzjames Stephen, in the debate on the Act which we are repealing today, justly called the mainstay of Indian finance. But, if the demand of the State on the profits of agriculture must be firmly kept up to its legitimate proportions in justice to the financial interests of the Empire, the Government is all the more bound to assure itself by every means of investigation open to it that the incidence of its assessments is equably and uniformly adjusted to the value of the land."

The Motion was put and agreed to.

The Hon'ble COLONEL WACE also moved that for section 73, sub-section (*4*), of the Bill, the following be substituted, namely :—

"(*4*) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the landowner."

He said :—"This is a verbal amendment, and its object is to bring the language used in this section relating to a particular and occasional assessment into better agreement with that used in respect of assessments generally in the chapter of the Act which deals with this subject."

The Motion was put and agreed to.

The Hon'ble COLONEL WACE also moved that the Bill, as amended, be passed.

His Excellency THE PRESIDENT said :—

"In putting this Motion, now that Colonel Wace has crowned his work by the successful passing of these two important Bills, I desire, on the part of the Government of India, to offer to him our very best thanks. There is no doubt he has displayed a great amount of industry and ability in discharging the important task which has fallen to his lot, and personally I am most obliged to him.

"I also desire to express to our hon'ble colleague Nawáb Nawázish Ali Khán our very best thanks for his valuable assistance, and for having thus enabled his colleagues and the Government of India to profit by his great local knowledge and his advice. I am sure it has been a satisfaction to all of us to know that in a matter in which our hon'ble colleague is so deeply interested both these Bills should have received his warm and hearty support."

The Motion was put and agreed to.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON moved that the Report of the Select Committee on the Bill to establish a University at Allahabad be taken into consideration. He said:—

"We have received numerous criticisms on the Bill from the Government of the North-Western Provinces and Oudh, from gentlemen interested in the subject residing in those provinces, and from some members of the Senate of the Punjab University. We have also been favoured with a written opinion from our hon'ble colleague Rana Sir Shankar Baksh Singh, who was prevented attending this session of Council, in which he expresses approval of the measure. These opinions and criticisms we have carefully considered, and in accordance with many of them we have cleared up what appeared to be ambiguities in the wording of the Bill as introduced, and have endeavoured to remedy defects which experience has brought to light in the working of the Punjab and other University Acts.

"I need not detain the Council by dwelling on these changes, the more important of which are set forth in our Report. I proceed at once to make some observations on the constitution of the University, the point in the Bill which has been mainly selected for adverse comment. We have made no change in the constitution and functions of the University, which will be, as originally proposed, an examining body with power in process of evolution to develop into a teaching body. It will consist of a Chancellor, Vice-Chancellor and Fellows, with whom when assembled as a Senate will rest the entire management of, and superintendence over, its affairs, concerns and property. Before the University can come into existence its component parts must be created, and therefore the Bill of necessity nominates the persons who are to be the first Chancellor, Vice-Chancellor and Fellows. This necessity appears to have been overlooked by a few of the critics of the measure. The first Chancellor will be the present Lieutenant-Governor of

the North-Western Provinces and Chief Commissioner of Oudh, as I stated at an earlier stage of the Bill. The first Vice-Chancellor will be the Hon'ble Sir John Edge, Chief Justice of the High Court of the North-Western Provinces. This nomination will, I have no doubt, commend itself to the Council not only on account of the personal merits of the nominee but also because from the fact of his holding a high office at Allahabad the Vice-Chancellor will be able to preside over all, or at least all the more important, meetings of the Senate and Syndicate and to guide their proceedings with weight and effect.

" The first Fellows will be found in Parts I and II of the schedule to the Bill. Part I contains a list of officers in the service of Government. On a former occasion I explained the reasons for which it was deemed advisable that the incumbents for the time being of such offices should be Fellows of the University. We have added to the list entered in the Bill as introduced the Chief Commissioner of the Central Provinces and the Agent to the Governor General in Rajputana, as we hope that both the Central Provinces and Rajputana, where there are at present colleges imparting high education, will soon send students to our University. The Government of the North-Western Provinces and Oudh accepted a proposal to limit the number of *ex officio* Fellows and suggested a maximum of twelve, but on consideration the Select Committee came to the conclusion that such a limitation might prove inconvenient in practice and decided to make no change on this point in the Bill as introduced.

" We were unable to attach much weight to a general objection to the institution of *ex officio* Fellowships as giving Government excessive influence in the management of the University. There is nothing in the circumstances of the infant Allahabad University which will enable her for a long time to dispense with the official support and guidance which have been found necessary in the case of her elder sisters at Calcutta, Madras, Bombay and Lahore. The educated classes within the sphere of her operations are not yet so numerous as to afford a sufficiently wide field for the selection of persons who could safely be entrusted with the control of higher education in an area of such vast extent, and are not so influential with the general public as to draw them on to a practical appreciation of that education, when unaided by the prestige and authority of the Executive Government. By the measure before us Government is committing large though indirect powers of control over the education of the people to the institution established by the Bill, and it is

our duty to make such provisions in regard to its constitution as will ensure that those powers will be properly and efficiently exercised and that they will not be abused.

"On this point and also on some proposed additions to the *ex officio* list Sir A. C. Lyall writes as follows:—

'The institution of *ex officio* Fellows, and the power conferred by the Bill on the Local Government to specify the offices to which Fellowships should be attached, have met with some adverse criticism. The Hon'ble Mr. Justice Mahmud, who combines with the education of an English University an intimate knowledge of the people of these Provinces and whose opinion is therefore of special value, while he admits that there are good reasons why the Bishop of Calcutta, the Chief Justice of the North-Western Provinces and the Director of Public Instruction should be *ex officio* members of the Senate and Fellows of the University, would either restrict the distinction to those appointments or, if it were thought necessary to attach it to others, would greatly add to the number specified in the first schedule of the Bill. As a member of the governing body of the Muhammadan College at Aligarh, he objects to the distinction which seems to be drawn between the Principals of Government colleges and the Principals of colleges which have been founded or are supported by the people, and suggests that either the former be struck out of the schedule or the names of the latter added to it. After full consideration, the Lieutenant-Governor is unable to recommend any alteration of the Bill in this respect. The reasons for the present rule are found in the wording of section 5 (*a*), which limits the nomination of *ex officio* Fellows to persons who hold offices under Government, and who would not, therefore, be at liberty either to decline the appointment or to abstain from taking such a part in the business of the University as Government might allot to them. But gentlemen who are at the head of the independent colleges are in a different position; and to enter them in the Act as Fellows *ex officio* might expose the Government to the risk of anomalies and embarrassment. All the present heads of independent colleges have been nominated by Sir Alfred Lyall as Fellows in Part II of the schedule, and there is no reason to suppose that the claims of their successors will be overlooked. When the principle on which the distinction is made is understood, it is not likely to be regarded as in any way invidious, nor indeed does the Hon'ble Saiyad Ahmad Khán Bahádur, C.S.I., the founder and Principal of the Aligarh College, take any objection to it in the opinion with which he has favoured this Government. That there should be a small number of *ex officio* Fellows to form a permanent nucleus to the Senate seems hardly open to dispute and is not gainsaid by Mr. Justice Mahmud. His suggestion, that a general power be given to the Local Government to specify such independent or aided colleges as are affiliated to the University and possess a sufficiently high status to entitle their Principals to *ex officio* Fellowships, has also been attentively considered. But here again the objection already explained stands in the way, while it has also to be remembered that a college thus specified might not maintain the standard of teaching in regard for which the Fellowship should have been made *ex officio*.'

"Part II contains the list of first Fellows other than those appointed *ex officio*—32 in number—and has been drawn up so as to include qualified representatives of all classes likely to be interested in the success of the University.

"In the printed papers on the Bill will be found letters from gentlemen connected with the Educational Department in the North-Western Provinces which express regrets and apprehensions that sufficient influence has not been given to Principals and Professors of colleges in the constitution of the University. When those letters were written the list contained in Part II of the schedule had not been published. An analysis of that list shows that of the 32 Fellows named in it 16 are or have been directly concerned with education in the united provinces.

"The services in the cause of education of my hon'ble friend Saiyad Ahmad Khán Bahádur are well known to the members of this Council. He is the founder and practically still the manager of the Anglo-Muhammadan College at Aligarh, a flourishing institution which numbers its students by hundreds and is rapidly diffusing among our Muhammadan fellow-subjects a widespread desire for that higher English education from which they have hitherto in a great measure kept aloof.

"Rájá Siva Prasad, of Benares, was for many years employed in the Educational Department of the North-Western Provinces, where his intelligent labours earned for him special reward and distinctions.

"Besides these two gentlemen the list includes the Principals of five aided colleges, seven Professors or ex-Professors of Colleges and two Inspectors of Schools, and Part I enrols among the *ex officio* Fellows the Director of Public Instruction and the Principals of the Government Colleges at Allahabad and Benares. Unless it be determined to make over the entire management of the University to what is after all a small body of professional teachers in the united provinces, I think their representation in the governing body of the University cannot be considered inadequate. Great as are the professional abilities, zeal and attainments of those gentlemen, we are not prepared to recommend that the just influence they may hope to maintain in the direction of the studies prescribed by the University should be untempered by the wider experience of the educational needs of the inhabitants of the united provinces which we may hope to gain from the representation in the Senate of the views of classes other than professional educationists. The identity of the teaching and examining staff is also as far as possible to be avoided in a University which, like this,

aims at ultimately combining teaching with examination. In the debate on the Punjab University Bill in 1882, the late Law Member, whose opinion on the subject is entitled to especial weight, stated that from his English experience he knew the risk to be real and substantial if this principle were disregarded.

"In addition to the gentlemen directly connected with education in the North-Western Provinces, the list of first Fellows contains the names of several others who from their academic experience, professional avocations or interest evinced in the cause of education are likely to contribute to the successful management of the University.

"We have by an alteration in the Bill as introduced, in partial accordance with a recommendation of the Lieutenant-Governor, empowered the University to confer degrees of Bachelor and Doctor of Laws without reference to the Government of India. The local High Court is therefore largely represented in the Senate by the Vice-Chancellor, by two others of its learned Judges, by one of its Advocates and one of its Pleaders. Three Fellows are taken from the Covenanted, one from the Uncovenanted, Civil Service; three from the Medical, and one from the Engineering, professions. The Taluqdárs of Oudh furnish one Fellow whose literary abilities and liberal encouragement of education on his estates would under any circumstances entitle him to a place in the list, in which also fitly appear the names of two gentlemen from the same province, one of whom is an enterprising publisher of Vernacular works which he disseminates through India, Persia and Central Asia, and the other is a Master of Arts of the Calcutta University to whom we are indebted for several useful criticisms on the Bill."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

KING OF OUDH'S ESTATE BILL.

The Hon'ble MR. SCOBLE moved that the Bill be taken into consideration. He said:—"This Bill, copies of which have been laid on the table since the sitting of the Council began, consists of three sections the effect of which I will briefly state. The first section gives the Governor General in Council exclusive authority to act in the administration of the property of whatever nature left by His late Majesty the King of Oudh in regard to the settlement

and satisfaction of claims against the estate of His late Majesty and to make distribution of the remaining property or the proceeds thereof in such manner as he deems fit among the family and dependents of His late Majesty; and it also provides that no act done by the Governor General in Council in connection with the administration of the property shall be liable to be questioned in any Court.

"The second section indemnifies the Agent to the Governor General (who, as I have already stated, is in possession of the property of His late Majesty in his house at Garden Reach at Calcutta) and all persons acting under his orders from liability in respect of all acts done by him or them since the 20th of September, the date of His Majesty's death, in connection with the preservation and administration of the estate of His late Majesty; and provides that no suit or other proceeding shall be instituted in any Court against him or them or against the Secretary of State for India in Council in respect of those acts or any of them.

"The third section is designed to prevent the possibility of any testamentary or other disposition of the estate made by His late Majesty from taking effect adversely to the administration of the estate by the Government, and to nullify any proceedings which may have been or may be instituted before any Civil Court for administering the estate, and it also provides that any person who under any probate, letters of administration or certificate or otherwise has received any portion of the estate of the King shall be bound to account for such property to the Government of India or to such officer as may be appointed in this behalf."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE then moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 6th October, 1887.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

SIMLA;
The 29th September, 1887.

Govt. C. Press, Simla.—No. 490 L. D.—29-9-87.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 6th October, 1887.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of the Punjab.
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble J. B. Peile, M.A., C.S.I.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Colonel E. G. Wace.
The Hon'ble Nawáb Nawázish Ali Khán, C.I.E.

GAME PROTECTION BILL.

The Hon'ble MR. PEILE presented the Report of the Select Committee on the Bill for the Protection of Game.

INLAND BONDED WAREHOUSES BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to provide for the establishment of bonded warehouses at places other than customs-ports.

POLICE BILL, 1887.

The Hon'ble MR. PEILE moved for leave to introduce a Bill to amend the Law relating to the Regulation of Police. He said:

"The reason for this Bill is the difficulty found in dealing with the police of a Railway system under the General Police Act V of 1861, and the Local Police Acts of the Madras and Bombay Presidencies, which restrict the employment of police officers to the presidency, province or place of the police establishment of which they are members. The object of the Bill is to enable the

Governor General in Council to create a general police district embracing parts of two or more provinces, over which a Railway system extends. That object is carried out in section 2 of the Bill. The 3rd section is to enable the Government in case of emergency to bring the police force of one presidency to bear upon the scene of a disturbance in another presidency. The Bill therefore provides in section 3, that a member of the police force of any presidency or general police district, may be employed in any other presidency or police district, and while so employed shall be deemed to be a member of the police establishment of that other presidency or district."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also introduced the Bill.

The Hon'ble MR. PEILE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 20th October, 1887.

SIMLA;
The 7th October, 1887.

J. M. MACPHERSON,
Offg. Secretary to the Govt. of India,
Legislative Department.

Govt. C. Press, Simla.—No. 542 L. D.—10-10-87.—316.

BENGAL LIBRARY.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 20th October, 1887.

PRESENT:

His Excellency the Viceroy and Governor-General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble J. Westland.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble Colonel E. G. Wace.

GAME PROTECTION BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill for the Protection of Game be taken into consideration. He said:

"The communications laid before the Select Committee with reference to this Bill show a general consensus of opinion in favour of legislation on the subject. Where objection has been taken, it has been, not to the principle of the Bill, but that it does not go far enough. We have endeavoured to meet this objection to some extent, and the Bill is now submitted to the Council not as a Bill for the protection of game, but as a Wild Birds' Protection Bill. The term 'wild bird' is left to be defined by the local authorities in each case according to local circumstances, but it is expressly declared to include peacocks which, whether tame or wild, are objects of veneration in many parts of the country. It will also admit of protection being given to insectivorous as well as game birds, a matter as to which the Government of Madras is very solicitous. And it will operate to prevent the indiscriminate slaughter of birds for their plumage. Upon this point let me quote the testimony of two or three witnesses. The Magistrate of the 24-Pergunnahs writes that 'it is paddy-birds, fly-catchers and other birds not usually called game that chiefly need protection. These birds are of great use as destroyers of insects, but are eagerly sought after for their plumage, which is brightest during the breeding

season. They are therefore in some places becoming quickly exterminated.' From the other side of India, the Commissioner in Sindh reports that 'as many as 30,000 black partridges were destroyed in a very few days, in one or two of the northern talukas of Sindh, with a view to supply the demand from Europe for the skins. The Commissioner believes this demand still continues, and unless destruction of the birds is checked during the breeding season, there will soon be no black partridge in the country.' The Lieutenant-Governor of the Punjab testifies to the same effect. 'The European demand' he says, 'for the skins of birds of bright plumage is said by competent observers to have done much harm in some parts of India, as these birds are often of very useful insectivorous varieties. The rural populations are sorry to see them destroyed, while the only persons interested in the trade are the exporters and a few professional netters and snarers employed by them.' By empowering municipal and cantonment authorities to make rules fixing a close season for any kind of wild bird, and imposing a penalty on the possession or sale of such birds, if recently killed or taken, during that season, I hope that we have sufficiently guarded agricultural as well as sporting interests, while it may safely be left to Local Governments to see that the rules occasion no unnecessary interference with the course of trade.

"As this is a tentative measure, we have not thought it desirable to give District Boards the powers conferred by it on municipal and cantonment authorities.

"In the Bill as it originally stood, it was provided that a Magistrate should not take cognizance of an offence under it except on the complaint of the local authority or of some person authorized by that authority. It was pointed out that this might have the effect of reducing the Act to a dead letter, and the Committee has accordingly omitted the clause.

"In regard to penalties the Committee has followed the precedent of the English Acts by imposing enhanced penalties for repeated offences, and directing the confiscation of the bird or plumage in respect of which the offence was committed.

"Finally, power has been given to Local Governments to extend the provisions of the Act to animals of game other than birds."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

1887.] [*Mr. Westland; Sir C. Aitchison; Mr. Scoble.*]

INLAND BONDED WARE-HOUSES BILL.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee on the Bill to provide for the establishment of bonded ware-houses at places other than customs-ports be taken into consideration. He said:

"The object of the Bill was to remedy a defect in the Sea Customs Act, 1878, in consequence of which it became impossible to appoint or license bonded ware-houses at places other than customs-ports. The Bill is therefore little more than a formal one. It was introduced to meet an actual demand of trade in Bengal and it has been fully approved by the various maritime Governments, and by the Revenue authorities and Chambers of Commerce to whom they referred it for opinion."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill be passed.

The Motion was put and agreed to.

POLICE BILL, 1887.

The Hon'ble SIR CHARLES AITCHISON moved that the Bill to amend the Law relating to the Regulation of Police be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble, Westland and Quinton and the Mover.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. SCOBLE moved that the Hon'ble Sir Charles Aitchison be substituted for the Hon'ble Mr. Peile as a member of the Select Committees on the following Bills:

To consolidate and amend the law relating to Guardian and Ward.

To amend the Code of Civil Procedure and the Indian Limitation Act, 1877.

To consolidate and amend the law relating to the Protection of Inventions and Designs.

To consolidate and amend the law relating to Courts in Lower Burma.

To amend the Indian Stamp Act, 1879.

To make better provision for recovering certain public demands.

The Motion was put and agreed to.

The Council adjourned *sine die*.

J. M. MACPHERSON,
Offg. Secretary to the Govt. of India,
Legislative Department.

SIMLA;
The 21st October, 1887.

Govt. C. Press, Simla.—No. 571 L. D.—24-10-87.—316.